

A CONSTITUTIONAL AND
POLITICAL HISTORY OF ROME

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FROM THE EARLIEST TIMES
TO THE REIGN OF DOMITIAN

BY

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P R E F A C E

I HAVE been led to write this History by the want I have often felt of a text-book, dealing with the origin and growth of the Roman institutions, which should be accessible to those not equipped with a knowledge of French and German.

My aim has been to give students of Roman History, who are reading that subject in conjunction with many others, and whose time is necessarily limited, a short account of the growth of the Roman constitution and the problems with which it is surrounded. Generally I have followed the ideas of the leading writers on the subject; where I have ventured to differ from them I have done so with diffidence, and only after careful consideration of the available evidence.

In preparing this book I have used freely the English Translation of Mommsen's History of Rome, Professor Pelham's 'Outlines of Roman History,' the works of Herzog and Willems, and, in the first chapter, the late Professor Seeley's Introduction to Livy, Book I.

I have acknowledged other obligations in the notes, which I have reduced to the smallest possible compass. A select list of authorities is subjoined.

In conclusion I wish to express my gratitude to Mr E. J. Brooks, late Fellow of St John's College, Cambridge, for his kindness in helping me to correct the proofs and his many valuable suggestions.

T. M. T.

3 POWIS SQUARE, W., .

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A CONSTITUTIONAL AND POLITICAL HISTORY OF ROME

CHAPTER I

ROME UNDER THE KINGS

THE history of the early Roman constitution is particularly obscure because of the lack of trustworthy authorities. There are several reasons for this absence of material. The Roman constitution was of gradual growth; it was evolved during centuries of political strife while the non-privileged class was gradually winning its way to equality with the full citizens. There was no Lycurgus to lay down once for all the social system of Rome; no Solon, Cleisthenes or Pericles to revise the constitution by a series of new enactments, and impress the new order of things with the stamp of his own individuality. The changes that took place passed almost unnoticed; the Tribune of 133 B.C. was very different to the Tribune of 494 B.C., and yet during these three hundred and sixty years no law, so far as we know, had been passed definitely extending the powers of the Tribune. So too with the Senate. We shall see how the Senate changed from an informal body of advisers under the kings to the great ruling corporation in Rome; and yet no laws were ever passed giving it a fixed place in the constitution, or granting it any definite extension of power.

It seems too that the Romans were never very fully endowed with the 'historical sense.' No people in its infancy has ever realised the value of a full system of State records. There is no reason to imagine that they existed in early Rome; and if they did, the majority disappeared in 390 B.C., when Rome was destroyed by the

Gauls. Thus when the annalists came to chronicle the early centuries of the city, they had to depend on a mass of tradition, old and new, Greek and Italian, with a certain number of family records inaccurately kept, preserved mainly by oral transmission, and aiming rather at the glorification of their house than the preservation of historical truth. Such scanty and unsatisfactory materials as these could hardly be expected to turn into sober historical records in the hands of Fabius Pictor and the early annalists, who had no conception of critical history and whose chief object was to produce a chronological table of events in Roman history. And when the later writers set their hands to the task it was on these annalists that they had to rely. Had they been historians in the modern sense of the word they might have evolved some plausible story out of the mass of conflicting and incongruous facts preserved by the old writers. Unfortunately Livy and Dionysius, who alone give us connected accounts of the first centuries of Rome, aimed only at giving a literary form to the material already existing. Neither of them was a historian; they used the works of the annalists in a random way; and produced readable stories of Roman history, based on the works of the earlier writers, uncorrected by any scientific examination on their own part. There are periods for which we have excellent authorities; the work of Polybius, who personally investigated all his facts and was not content with the compilations of the annalists on the Punic wars, and the letters of Cicero dealing with a still later epoch are of the utmost value; but the history of Rome down to the time of the Punic wars rests on a very unsatisfactory basis, and our knowledge of constitutional changes is often formed from a very misleading account in Livy or a chance remark in a later writer. Moreover the Romans never distinguished themselves as political theorists. The great question of the Ideal State, which was always so alluring to Greek theorists, had no attractions for the practical Roman of Republican times; there is no Roman treatise on political science to preserve incidentally facts relating to the institutions of Rome.

The first book of Livy embodies the traditional account of the Roman kings, but this has long ceased to be used as

the basis for a serious account of the earliest chapter in the history of Rome. The mass of tradition woven round the names of the kings by successive generations, and finally collected and embellished by Livy, has been carefully examined; the long lists of names, the circumstantial accounts of wars and victories and institutions are for the most part mere fables, and when all this has been rejected we have little more left than the simple statement of Tacitus, 'in the beginning kings ruled over Rome.' The existence of the kingship itself rests on tradition that cannot be impugned; and Rome follows so closely the normal line of constitutional development in the ancient city state that were there no traditions at all to guide us, we might with certainty assume that Rome began its career under the government of kings. It is only by a careful study of the traces left by it in the later constitution that a system of government has been deduced, which may be taken as fairly representing the monarchy of early Rome. But this constitution will be seen to be already far removed from that loose subjection of the many to the ruler, which marks the infancy of a people; the idea of responsibility in king and subjects is well developed; justice is regularly administered; there exist in custom, if not in law, safeguards for the people against injustice and oppression on the part of the king. It is clear that we are still far from the starting-point of Roman history, that the kingly government of Rome as we know it must have been of gradual growth, and that there is a wide interval between this constitution and the system that probably existed when the first Latin tribes settled on the banks of the Tiber.

Rome was formed by the gradual synoecism of neighbouring settlements. Tradition records the names of three tribes which went to form the Roman community, the Ramnes, Tities and Luceres; of these the first, we are told, were of Latin stock, the Tities were Sabines, the Luceres were Etruscans. It was also generally accepted by the Romans that the earliest settlement was that on the Palatine, and to the city founded here was given the name Roma Quadrata ('square Rome') from the shape of the summit of the Palatine Hill. There were clear traces

The Three
Tribes.

of other settlements on the Quirinal Hill and the Caelian, and the uncritical Roman writers endeavoured to make these three settlements harmonise with the traditional three tribes, and assigned one tribe to each of them, the Ramnes to the Palatine, the Tities to the Quirinal, and the Luceres to the Caelian. It is impossible to determine the origin of the three tribes, but there is no reason at all to identify them with the three settlements, and the idea that the Romans were a "mongrel nation," composed of Latins, Sabines and Etruscans, has long since been generally rejected. That there were certain Sabine, and possibly Etruscan elements in Rome is quite probable; but the Romans as a whole were of Latin stock, and their lines of political development are quite distinct from those of the Sabines and Etruscans and incompatible with the theory that only one-third of them were of Latin origin.

The Palatine Settlement.

The earliest city was beyond all doubt built on the Palatine Hill. This district is connected by tradition with all the earliest legends of Rome's history, and the old wall round the Palatine was visible in the days of Tacitus.¹ Round the Palatine was the first 'Pomoerium,' a space kept clear for religious purposes and defined in later years by a row of pillars marking the bounds of the city.

Synoecism of Rome.

It is impossible to do more than conjecture the probable course of the synoecism of Rome. The second stage seems to be marked by the 'Septimontium' (the festival of the Seven Mounts), *i.e.* the Palatine, Germalus, and Velia, the Fagutal, Oppian and Cispian (the three summits of the Esquiline), and the Subura, which was not a mountain at all but a valley—a fact which seems to take us back to a very early time when the word 'Mons' meant not a *hill* but a *district*. The 'Septimontium' was only a religious festival celebrated in common by these neighbouring districts; it need not imply any political extension of the Palatine city, but merely the forming of closer relations with the neighbouring communities for religious purposes.

The Esquiline.

The 'Septimontium' then embraced the Palatine together with the districts quite adjacent, and it is probable that the first political extension of the Palatine city included the neighbouring Esquiline. There is evidence that this district

¹ Tac. Ann. xii. 24.

passed at some time under Etruscan influence, and a necropolis of Etruscan remains has been found there; this may imply nothing more than an artistic union; for we know that close relations existed in early times between Rome and Caere, the commercial centre of Etruria. It may be that an Etruscan chief made himself master of the community of the Esquiline, and that it became separated politically from the Palatine city, for no mention is made of the Esquiline in the traditions concerning the later union of the Palatine and Quirinal. It remains uncertain at what time the Esquiline finally joined the growing city.

There are very definite traditions concerning the next stage in the growth of Rome, the synoecism of the Palatine and Quirinal. The accounts of the long struggles between them and the successes of the men of the Quirinal seem to indicate that the latter compelled the Palatine community to admit them. The Sabine origin of the Quirinal settlement is universally affirmed; if we admit it we must assume that the amalgamation took place at a time when there was no great distinction between the racial characteristics of the Latins and Sabines. Livy tells us of a long period of war ending in a peace between the two communities; it would seem that the final union was a compromise, and there is a tradition of an arrangement whereby Romulus was to be succeeded by the Sabine chief, Titus Tatius. The synoecism of the 'Montani' (men of the mountain, as the inhabitants of the Palatine were called) with the 'Collini' (hill-men, the settlers on the Quirinal) marked an entirely new departure in the growth of the city. These new-comers were not simply absorbed into the Palatine community; they did not lose all trace of their former independent institutions as had been the case with some of the neighbouring suburbs; they were an independent city with institutions of their own, and this was shown by the fact that, after the union, some of the Palatine institutions were duplicated in order to admit representatives of the Collini, while some of the institutions of the Quirinal were introduced side by side with those of the Palatine. It is probable that the political divisions were systematized and the original 'curies'¹ of the Palatine doubled

Union of
Palatine
and
Quirinal.

¹ See p. 11.

in number by the addition of the hill-men; that the dual community was divided into twenty curies, ten being assigned to the Montani and ten to the Collini. This duplicate system is most clearly shown in the religious institutions. The worship of Mars (the primitive and purely Italian deity) on the Quirinal continued to exist side by side with the worship of Mars on the Palatine, and down to the latest time the two colleges of the priests of Mars, the Salii, and of Faunus, the Luperci, existed in duplicate. This explanation may also account for the two pairs of Pontiffs and Augurs in early days.

Union
with the
Caelian.

The Rome of history was formed by the final union of the combined Palatine and Quirinal city with the settlement on the Caelian Hill. Tradition represents this settlement as having come under the domination of Etruscan princes, and the synoecism of the Caelian with the older settlements is assigned to the reign of the first Tarquin. The circumstances of the Tarquin dynasty make the general lines of this tradition probable, and it seems that the Caelian settlement joined the others on a footing of superiority. It has been said above that the Esquiline probably passed under Etruscan influence at some time, and that it is uncertain when it was united politically with the older settlement, while it is certain that the Esquiline and the Subura participated in the festival of the Seven Mounts. Now it is noteworthy that when the city came to be divided into four local tribes by Servius Tullius they took precedence in the following order—the Suburan (including the Caelian), the Palatine, the Esquiline, and the Quirinal. This seems to indicate that the Caelian claimed actual superiority to the older settlements; that when it joined the existing dual community it entered itself under the name of the Subura, which had originally been a mere suburb of the Palatine; for it is inconceivable that the Subura by itself should have actually taken precedence over the original city on the Palatine.

This account of the growth of Rome is necessarily largely conjectural, and rests on very fragmentary and unsatisfactory evidence. Rome, as we are accustomed to think of it, did not enter on the stage of history till the time of Servius Tullius, whose great city wall, encircling the various districts and communities, with the Capitol as a common stronghold

for all, marks the beginning of Historical Rome. But for generations, while this process of synoecism had been going on, the Romans had been governed by kings and had had a definite constitution. As the bounds of the community were successively widened, modification in the various institutions, such as the assembly and the council of elders, must have been made; what these changes were, and how far the Roman king as we know him differed from the chief of earlier days it is impossible to conjecture. We can only say that the community of Rome was formed by the gradual fusion of neighbouring tribes, or settlements, of kindred race, and that it was probably in this process that the kingship lost its purely patriarchal character; for the Rex, as we know him, 'was not simply either the hereditary and patriarchal chief of a clan, the priestly head of a community bound together by common "sacra," or the elected magistrate of a state, but a mixture of all three.'¹

It is this compromise that constitutes the great difference The King. between the early Roman king and the Basileus in Homer, though there are many points of analogy between them. The Roman Rex was the Supreme Judge, the High Priest and the Commander-in-Chief in war; but it was not by virtue of divine descent that he held this position; there were no princely families in Rome tracing their origin from the immortal gods; the Roman burgesses were a community of husbandmen on a footing of absolute equality, and the king received his power from them by delegation. He was a simple Roman burgess chosen by his peers to fill the position of their leader; but after the election they owed him allegiance just as much as if he ruled by right of divine descent. He held in his hands the full 'Imperium,' or command of the State, both in peace and war; the power that had made him king could not constitutionally depose him if he abused his trust; he was supreme for life and there were no legal checks upon his powers of administration.

The power of the king was closely modelled on the Patria Appoint-
ment of
the King. Potestas. There is one important point of difference. When the 'pater familias' died his sons immediately became vested with the powers that had lain in his hands; when the king

¹ Prof. Pelham's 'Outlines of Roman History.'

The
Interrex.

died the Imperium vanished and the sovereignty of the State was again vested in the burgesses, or the council of elders (the Patres) as representing them; they nominated a temporary king ('Interrex'), who was forced after five days to nominate another with whom lay the actual designation of the new king. This procedure has given rise to much discussion as to whether the kingship was elective or not. The confusion is caused by the desire of the Romans to reconcile theory and practice. The kingship at Rome was originally elective. The first king was chosen by the burgesses. But it appears to have been from the earliest times a maxim at Rome that formally at any rate 'Potestas,' or magisterial power, should always pass by direct designation from a magistrate already holding it. Thus when the king died the first Interrex, having received his power irregularly (*i.e.* not by direct designation from someone exercising kingly power) could not nominate the new king himself, so he designated another Interrex who consulted with the Patres and the burgesses, and then appointed the king whom they selected. The new king theoretically held office by virtue of the designation of his predecessor (whether Interrex or Rex) — practically he was elected by the citizens. How firmly this right of the burgesses to a voice in the selection of their ruler was established in theory is shown by the fact that they owed no allegiance to the king till they had conferred the Imperium on him by a Lex Curiata, a law passed in their assembly, though this was often a mere formality. Even after this the election was not strictly valid until the Patres had confirmed it by giving their formal sanction (Auctoritas).

Powers of
the King.

The king was the supreme and only magistrate in Rome; judicial, military and administrative authority were all vested in him, and could only be held by others in virtue of delegation by him. He could delegate any of his functions at pleasure—judicial enquiries to the 'quaestores paricidii'¹ (trackers of murder), military functions to the 'Tribuni'

¹ The existence of the Quaestors under the kings is maintained by Mommsen, but it rests on very slight evidence—a very confused passage in Tac. Ann. xii. 22, and Ulpian. Dig. i. 13. Seeing that they were two in number it would seem more likely that the office was instituted at the

(leaders of divisions), the administration of the city to the 'Magister urbis' (master of the city). All such officials were merely deputies of the king, receiving their power from him and answerable to him alone. As high priest he named the Pontiffs and Augurs. The king like the later Republican magistrate had the right of initiative; he alone could address the burgesses and bring proposals before them. He could make war or peace, though there is some evidence for the necessity of the assent of the burgesses before the king could undertake an aggressive war. One legal check existed and one only—the principle was accepted that the king could not legislate without the consent of the burgesses in their assembly. Checks on the power of the King.

It was the idea of equality between the burgesses and the king—an equality only set aside by the act of the citizens themselves in voluntarily choosing him for their ruler that provided one of the great moral checks against abuse of the kingly power. For this power had practically no legal limits. The king was to the community what the Pater Familias was to the family. He could in strict law dispose of the persons and goods of all his subjects; he had power of life and death; he kept the State purse; he had to protect the interests of his countrymen in their relations with strangers; he tried and punished all offences; he represented the community in their dealings with the gods. But the same moral checks which custom had imposed against abuse of the father's absolute power over the life and property of his household operated in the case of the king to prevent unjust spoliation and cruelty; just as the Pater Familias called in a family council to assist him in passing judgment on serious cases, so the king called in advisers in grave offences against the State; after he had passed judgment he could allow if he pleased an appeal to the burgesses, though he was not compelled to do so. Thus the conception of the rights of the burgesses as the passive holders of the ultimate sovereignty was never lost sight of.

same time as the Consulship, one Quaestor being attached to each Consul as assistant, and nominated by him. This precedent was partly followed in the case of the Aediles when the Tribune was instituted.

They had sworn allegiance to the king, but the king ruled as their delegate, because it was necessary that there should be a master in the State. These checks, however, were not sufficient to hamper a strong and determined ruler. The course of affairs indicated by the traditions coincides with the probabilities of the case; the idea of an elective kingship and equality between ruler and ruled falls more and more into the background with the lapse of time, and a successful attempt to found a dynasty is made. A strong and unscrupulous ruler is able to break through the trammels which had held his predecessors, until the burgesses are compelled to resort to force and to take back into their own hands the power that is being abused.

The
Senate.

By the side of the king there existed a Council of State, the 'Patres' or Senate, which gained the prescriptive right of being consulted by the king on all important matters not connected with judicial or military administration. The origin of this body is uncertain. From the method of appointment under the early Republic we may conclude that it was a body of advisers selected by the king, with no administrative powers of its own; the Patres only gave the king their advice when he asked for it. But there is much to be said for the view that the Senate was originally in some sense a representative body. Tradition gives its number as 100, subsequently increased to 200, and later to 300 as the three tribes united to form one community and gained equality of privileges. This number coincides with the traditional number of the clans (*gentes*), and it is quite possible that the original council was composed of the heads of the clans, each representative holding his post for life and being succeeded by another representative from the same clan when he died. But as the idea of the clan as the sphere of political and social activity was gradually merged in the idea of the State, the conception of the Senate as a body representing the clans must have fallen into the background, and the choice of the king must have become less circumscribed. This accords with all the ancient authorities, who represent the composition of the Senate as depending entirely on selection by the king.

The king was even less restricted in his relations with the Senate than with the people. The burgesses had certain rights which the king was bound to recognise; the Senate in strict law had none. It was a very different body to the Senate of the Republic, most of whose members had held high magistracies and gained administrative experience; for the king was the only administrator in Rome. But as a board of advisers who held office for life and who had probably been more or less representative of the great clans whose union had formed the Roman community, they could scarcely fail to acquire some definite practical influence. They only assembled in answer to the summons of the king and then only gave advice when asked. This the king was free to reject, but it was probably regarded as an abuse of power if he did not consult them and pay some attention to their advice on important affairs of State such as the declaration of war or the conclusion of peace. It was in this way that the Council, though legally holding no position in the State, formed perhaps the most effective check on the power of the king.

Influence
of the
Senate.

The citizens of Rome comprised the free-born members of the primitive tribes. In the principle of division adopted for political and religious purposes the family, not the individual, was the unit. According to tradition ten families formed a clan (*gens*), ten clans formed a wardship (*curia*), and ten wardships formed the tribe. We hear of three such tribes—Ramnes, Tities and Luceres,—each subdivided in the same manner. This division into *curiae*, *gentes* and families bears an artificial stamp, an analogy to which may be found in the *φρατρίαι* and *Γένη* of Athens. There is little doubt that originally these terms had their proper significance. In very remote times a number of families connected by ties of relationship kept up their connexion by the celebration of common religious rites (*sacra*) and formed themselves into a *Gens*. The next point in the development is the *Curia* which certainly has a local origin; several neighbouring clans would join together and constitute a *Curia* or wardship. The third stage is the union of several *curiae* to form a community. These terms are of great antiquity, and the existence of the *gentes* and *curiae* was probably a common

The
'*curiae*'
and
'*gentes*.'

feature in the communities from whose union Rome was formed. When two or three such communities finally amalgamated, each was regarded no longer as a separate community but as a part or 'Tribus' of the whole, and it was probably at the time of such union that the original significance of the terms 'gens' and 'curia' was partly lost, and to secure symmetry and an equal adjustment of political rights and burdens within the new state each 'tribus' was artificially redistributed without unnecessary changes in the manner stated above, 10 curiae and 100 gentes being assigned to each tribe, the total for the united State being 30 curiae and 300 gentes.¹ The term 'curia' would at first keep its local associations, though, as the State grew, these would be less marked than when the 'curia' was a unit in a smaller community; but the original local association must have gradually disappeared as the members constituting them changed their habitations, and the 'curia' soon came to be regarded purely as a political division. The 'gentes,' though doubtless in many cases reorganised on an artificial basis, outlived the shock, and the careful maintenance of the Gentile rites kept up the idea of an exclusive family association down to the latest times.²

The
Burgesses.

The 'Populus' or body politic of Rome consisted of a limited number of burgesses with full political rights and a definite political organisation—the division into curies.

¹ The number of households is given by tradition as 3000. This can only have been approximate. The curiae may have been ten in number in each tribe and the gentes reorganised so as to give ten to each curia; but the number of families can hardly have been manipulated so as to be an exact multiple of the number of gentes in each tribe.

² See Prof. Seeley's Introduction to Livy, Book I. Those commentators who, like Niebuhr, maintain that the 'gens' was a political institution on the same footing as the 'curia,' look for support to the analogous division of the Attic Phyle into Phratræi and Genê which was undoubtedly the work of a legislator. Yet even in these artificial Genê affinity is not denied by the ancients, and the idea of affinity as the basis of the Genê is admitted by most modern writers. The old Genê were probably reorganised and new families admitted on grounds of a fictitious relationship, and the same course may have been followed at Rome. It would seem that the Romans were much more tenacious of the idea of affinity as the basis of the 'gens' than the Greeks were.

‘Upon the burgesses, and on them alone, devolved the duty of protecting the State, and they alone possessed the privileges belonging to citizens. The one qualification for citizenship was birth. The original citizen body comprised the free-born members of the primitive clans, and these were called ‘Patricii’: only the legitimate offspring of full citizens inherited these rights. Within the burgess body there was strict equality; there was no noble, no official class, for those selected by the king to act as his deputies were naturally so few that they never formed a distinct ‘ordo.’ Anyone outside the community, who was admitted by the vote of the burgesses to the citizenship of Rome, took his place at once beside the Romans on a footing of perfect equality.

The chief burden which devolved on the burgesses was service in the army. This army or ‘legio’ is represented by tradition as consisting of 3000 foot (‘milites’), and 300 horse (‘celerēs’), 1000 foot and 100 horse from each of the three tribes. We can hardly believe that an army of 3300 men was found sufficient until its reorganisation by Servius Tullius; but though no reliance is to be placed on this statement, there is no doubt that the ‘legio’ is among the oldest institutions of Rome. The infantry was officered by ‘tribuni militum’ chosen by the king, who held chief command; the cavalry was similarly officered by ‘tribuni celerum’ appointed in the same way, and acting under the orders of the ‘magister equitum,’ who was placed by the king at the head of the cavalry. Apart from service in war, the burgesses were bound at all times to perform the king’s commands, to till his lands, to devote their labour to public works, the making of roads and building of walls. There were no financial burdens, for the special war contribution (‘Tributum’) was regarded as a loan to the State, and was repaid at the earliest opportunity; no pay was given to the burgesses for their services in war or peace; in the event of a successful war they were doubtless rewarded by grants of the conquered land, which became the property not of the king, but of the State, or by permission to pasture their cattle on the State lands, which were of course administered and assigned by the king, who no doubt

Duties of
the
Burgesses.

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² See Prof. Seeley's Introduction to Livy, Book I. Those commentators who, like Niebuhr, maintain that the 'gens' was a political institution on the same footing as the 'curia,' look for support to the analogous division of the Attic Phyle into Phratirai and Gené which was undoubtedly the work of a legislator. Yet even in these artificial Gené affinity is not denied by the ancients, and the idea of affinity as the basis of the Gené is admitted by most modern writers. The old Gené were probably reorganised and new families admitted on grounds of a fictitious relationship, and the same course may have been followed at Rome. It would seem that the Romans were much more tenacious of the idea of affinity as the basis of the 'gens' than the Greeks were.

¹ Upon the burgesses, and on them alone, devolved the duty of protecting the State, and they alone possessed the privileges belonging to citizens. The one qualification for citizenship was birth. The original citizen body comprised the free-born members of the primitive clans, and these were called 'Patricii': only the legitimate offspring of full citizens inherited these rights. Within the burgess body there was strict equality; there was no noble, no official class, for those selected by the king to act as his deputies were naturally so few that they never formed a distinct 'ordo.' Anyone outside the community, who was admitted by the vote of the burgesses to the citizenship of Rome, took his place at once beside the Romans on a footing of perfect equality.

The chief burden which devolved on the burgesses was service in the army. This army or 'legio' is represented by tradition as consisting of 3000 foot ('milites'), and 300 horse ('celeres'), 1000 foot and 100 horse from each of the three tribes. We can hardly believe that an army of 3300 men was found sufficient until its reorganisation by Servius Tullius; but though no reliance is to be placed on this statement, there is no doubt that the 'legio' is among the oldest institutions of Rome. The infantry was officered by 'tribuni militum' chosen by the king, who held chief command; the cavalry was similarly officered by 'tribuni celerum' appointed in the same way, and acting under the orders of the 'magister equitum,' who was placed by the king at the head of the cavalry. Apart from service in war, the burgesses were bound at all times to perform the king's commands, to till his lands, to devote their labour to public works, the making of roads and building of walls. There were no financial burdens, for the special war contribution ('Tributum') was regarded as a loan to the State, and was repaid at the earliest opportunity; no pay was given to the burgesses for their services in war or peace; in the event of a successful war they were doubtless rewarded by grants of the conquered land, which became the property not of the king, but of the State, or by permission to pasture their cattle on the State lands, which were of course administered and assigned by the king, who no doubt

Duties of
the
Burgesses.

received for himself an extensive share of the conquered lands.¹

Rights of
the
Burgesses.

As the burgesses alone bore the burdens of the State, so they alone enjoyed political rights. The assembled burgesses conferred on the king the Imperium without which his appointment was invalid. They were consulted in all constitutional changes. Twice in every year at least, and at other times if necessary, the king called them together to consult them or to make a communication. On these occasions there was no discussion; the king addressed them and conveyed to them his proposal; their duty was simply to answer 'yes' or 'no.' In the ordinary executive they never interfered, in the administration of justice only when a condemned criminal was allowed by the king to appeal to the assembly ('Provocatio'). Such was the sphere of the political activity of the citizens. But the assembly had other work to do.

Comitia
Calata.

It was composed of the members of the gentes, and the protection of the gentile rights devolved upon it. Any measure that would affect the 'sacra,' or the constitution of the 'gentes' had to receive the sanction of the assembled curies. Thus the conferment of the citizenship needed their assent, for the new members must be enrolled in certain gentes and curies; testaments were submitted to them, for they had to protect the interests of the 'gentiles' (members of the gens) who inherited in the absence of direct heirs; 'adrogatio' (adoption) needed their concurrence, for this of course altered the constitution of a gens. These meetings soon became mere formalities as freedom of testation and adoption spread; when the assembly met for these purposes it seems to have retained the old name of Comitia Calata (from 'calare,' to call together). The name Comitia Curiata only came into official existence when there grew up other assemblies of the whole people, distinguished from the comitia curiata, not by their composition, but by their competence and particularly their

¹ This was probably the origin of the extensive possessions of the Tarquins (Agri Tarquinienses) which were confiscated on the overthrow of the monarchy.

organisation. The 'comitia calata' then became the 'comitia curiata' (the assembly that voted by curies) in contrast to the 'comitia centuriata' (the assembly that voted by centuries).

Such was the 'populus' or body politic of early Rome, ^{The} composed exclusively of 'Patricii' or members of the original ^{Patriciate.} 'gentes.' The origin of this patrician order and the name 'patricii' has given rise to much discussion.¹ It is evidently an adjective formed from 'pater' and is explained by Livy in these terms: 'Patres ab honore, patricique eorum progenies appellati,' 'the patres were so called from their official position as Senators and the name "patricians" was given to their descendants.' This explanation involves many difficulties. The assembly of Patres, or Senate, was no doubt an early political creation of one of the kings. If Livy's theory is accepted the Patricians must be held to have had an artificial origin, that is to say they were the descendants of a nobility created by the act of an early legislator; and this statement of Livy's is favoured by several other passages.² But the Roman writers had no definite testimony on this point; they must have arrived at their conclusion by pure conjecture; there is no trace of any such tradition prevailing among the great families. The confusion seems to have arisen from a wrong application of the analogy of the late nobility to the early Patricians. The nobility of the Republic grew up out of the great Senatorial families who had passed into the Senate by virtue of holding a high magistracy; reasoning on this basis the ancient authorities endeavoured to find the origin of the early nobility in the Senate. This conclusion was helped by the evident connexion between the two terms 'Patricii' and 'Patres.' But the analogy falls to pieces, for the circumstances of the two periods were quite different; the Republican Senate was chiefly composed of ex-magistrates who had held the highest posts in the State, and the Senate itself was an important body; hence the growth of a Senatorial nobility was natural.

¹ See Prof. Seeley's Introduction to Livy, Book I.

² Cic. de Rep. ii. 12. 'Cum ille Romuli senatus, qui constabat ex optimatibus, quibus ipse rex tantum tribuisset, ut eos patres nominari vellet patriciosque eorum liberos.'

Under the king the Senate was merely a body of advisers, existing by the grace of the king himself with none of the prestige attaching to an assembly of ex-magistrates—a very poor basis for the foundation of a nobility. Again the Patricii constituted according to all accounts the *whole class* of full burgesses; the later nobility was formed of a small circle of eminent families standing out among the privileged citizens, and contriving to keep in their own hands more than their share of the high posts of the State; in fact it was fundamentally a nobility of office not an aristocracy of birth.

Patricii
and Patres.

The original community of Rome was for the most part composed of husbandmen and farmers; there was probably little room for any considerable inequality in wealth or position; the first Senate was either composed of the representatives of the 'gentes' or was merely selected by the king. In either case the number selected for the Council was only a fraction of the heads of families which composed the gentes. Now if Livy's account is to be accepted we must imagine not only that these hundred men at once were lifted above their neighbours and formed the nobility of Rome while the remaining free heads of households were left in a position of inferiority, but that from these few 'patres' sprang a line of 'patricii' who usurped all the political privileges of the State, while the remaining free members of the gentes ceased to exercise any rights of citizenship at all; for nothing seems more certain than that in the first years of the Republic the Patricii alone were burgesses in the full sense of the word, and we may safely assume that the same holds good of Monarchical Rome as well. Livy's statement then would force us to the conclusion that after the Patres were first selected, whether on a basis of representation or not, they and their descendants formed the original order of patricians, or full citizens, while all the other free members of the old 'gentes' sank into an obscure position, and were in fact practically disfranchised; for the early Patricians were not a nobility standing above a number of free and equal citizens, they were a privileged class standing alone; in fact they were the *citizens* standing in marked contrast to a class of protected inhabitants who were in law possessed of no rights at all.

Much of the difficulty attending this subject has been caused by the mistaken idea that the same explanation will give the origin of the Patricii and of the name 'Patricii' ¹ as well. It is not necessary that the term 'Patricii' should be contemporary with the birth of the order; the probability is that the name 'Patricii' did not come into use till much later. At a time when most of the Roman community were free-born full citizens no such name was needed; it was only later, when the number of State-protected individuals at Rome became great, that a special word was needed to denote the burgesses in contradistinction to this other large body. When a name had to be found the term 'Patricii' was invented, possibly because of the close connexion existing between the Patrician order and the 'Patres,' or possibly simply as denoting 'those who had a father,' or those who could trace their descent back to the common ancestor of the 'gens,' for it was claimed by the Patricians as a distinguishing mark of their order that they alone were members of the gentes. ²

When the Roman community was first formed by the union of a number of 'gentes' it probably contained very few beyond the free-born members of the 'gentes' themselves—the full Roman citizens. Gradually there grew up another class which we find very numerous and prominent in the first years of the Republic, and which had doubtless acquired a numerical importance in very early times; these were called Plebeians. In addition to them there is another class called 'Clients.' There has been considerable controversy as to the origin and position of these two classes. Tradition uncritically makes them both a creation of Romulus; this may of course be at once ignored. Neither of these classes owed their existence to the hand of the legislator any more than did the Patricians. The distinction between the Plebeians and Clients is fairly clear; ³ the clients ('cluere' = obediens) were bound by hereditary obligations to Patrician families, in return for which they received certain benefits;

¹ The whole question is complicated by Livy's careless use of *Patres* and *Patricii* as synonyms.

² Liv. x. 8. 4, '(Patricios) solos gentem habere.'

³ See Willems, 'Le Droit public Romain.'

they accompanied their patron to war, contributed money if necessary to the dowry of his daughter or his ransom; the patron in return owed his client help in all circumstances; in point of consideration the client came next to the patron's 'Agnati' (the relations in male line), before the 'Cognati' and 'Affines'; he had a share in the 'Sacra gentilitia'; patron and client could not give evidence against one another in a lawsuit. The characteristics of these obligations are that they are *hereditary* and *religious*, and they constitute the only difference between Clients and Plebeians. The Clients were Plebeians, but the Plebeians were not necessarily Clients, for had the two classes been the same the shocking cruelties perpetrated by the Patricians on the Plebeians who were their debtors in the first years of the Republic would have been impossible. From the first many of the leading gentes had slaves who had been taken prisoners in war, and dependants, either members of neighbouring tribes who had put themselves under their protection, or slaves who had been freed from their bonds on condition of performing certain services continually to the owner's family. This is the origin of the clients: they were mostly the descendants of enfranchised slaves; for before the consequences of enfranchisement were modified, the master could impose obligations on the descendants of the enfranchised. Moreover, enfranchisement gave admission to the 'Sacra gentilitia,' and this accounts at once for the hereditary and religious nature of the connexion.

The
Plebeians.

The Plebeians must not be confused with the clients; only a portion of the Plebeians were clients of the Patricians. It has been maintained by some¹ that the Plebeians were the citizens of neighbouring cities incorporated after conquest by Rome; by others² that they were derived from the clients by the extinction of the family of the patron, whereby the obligations owed by the clients ceased. These accounts are both partly correct; the former takes no account of the many Latins and Italians who would naturally settle of their own free will as craftsmen or farmers in or near Rome, as the city grew in power, and was able to afford them protection; the latter would not account for their numerical importance at so early

¹ Niebuhr.

² Willems.

a date, though it provides an explanation of the origin of the Plebeian status. Two points are to be noted about the Plebeians as a whole—firstly, they were largely an agricultural population; secondly, they were not a conquered people like the Helots or Perioeci of Laconia, but a quasi-independent community. Just as the clients were in many cases individuals who had put themselves under the protection of certain clans or chiefs, so the Plebeians were clients in a sense, not of individual gentes, but of the king. Many of them were Latins who had settled at Rome; possibly their numbers were largely increased by the inclusion of the lower class among the conquered Albans; others again no doubt were recruited from the clients as the families of the patrons died out or waived their rights.¹

Beside the Patricii or full burgesses, who monopolised the political rights, stood these two classes of dependants, the clients owing certain obligations to the great clans, and the Plebeians in a way the clients of the State and probably paying a tax to the king for their protection. The public rights enjoyed by the citizens were four in number, 'Jus Suffragii' the right of voting in the Assembly, 'Jus Honorum' the right of holding office by delegation from the king, 'Jus sacrorum auspiorum' the right of taking the auspices, and the 'Jus occupandi agrum publicum' the right of 'occupying' the public lands.² Of these Jura it is certain that the last three belonged of right to the Patricians alone; it is probable, however, that the Plebeians did occasionally receive grants of public land from the king. The question as to their possession of the Jus Suffragii is discussed below. Of the private rights the chief were the 'Jus conubii' and 'Jus commercii'; the former belonged to the Patricians alone, for intermarriage between Patricians and Plebeians was not recognised; the latter, which implied the right to own land, was probably extended to Plebeians by Servius Tullius, so that they might be liable as landowners for service in the new army.

Position of
the Non-
citizens.

¹ Mommsen in his History draws no distinction between Plebeians and Clients on the ground that they were all originally clients.

² The 'Jus honorum' and 'Jus sacrorum auspiorum' were of little importance till later times.

The Non-
citizens
and the
Gentes.

The political connexion of the clients and Plebeians with the gentes and curies is much more difficult to determine. The 'gentes' were the old clans whose members were closely united by ties of affinity—partly real, partly fictitious; the 'curiae' were in their origin local, but their local significance had been lost and they were regarded as a convenient political division of the people. Now the clients and Plebeians though really on a different footing had so many resemblances that politically their treatment was the same—in fact the clients were a special class of Plebeians marked off by the obligations they owed to certain noble families. Moreover the clients as a class existed first, for their relation of 'clientage' to powerful gentes was probably anterior to the existence of Rome itself. Now the clients were closely connected with the 'gentes,' and when the Plebeians or State clients came into existence as an order, it is possible that they too were treated in the same way as the clients, to whom they had so many points of resemblance, and attached informally to the gentes. They were not actually admitted to the old Patrician 'gentes,' they did not share in the 'sacra gentilitia,' and in fact they were less closely connected with the gentes than the clients, but they were assigned to the various gentes in a loose manner. This question of the admission of the Plebeians to the gentes seems to have been debated even among the Romans themselves. According to Livy, when Decius Mus in 300 B.C. was supporting the Ogulnian law for opening priesthoods to the Plebeians and was reviewing the objections of his opponents, he laid special stress on the claims of the Patricians that they alone were members of the 'gentes,'¹ though we often read of Plebeians belonging to the 'gentes'; this seems to show that the Patricians conceived the 'gentes' as belonging to themselves alone, but that the Plebeians did not admit the claim. We read too, that after M. Manlius Capitolinus had been executed for treason the 'gens Manlia' forbade any Patrician member of their clan henceforth to bear the name of Marcus, intending thereby to disown any connection with those Plebeians who claimed to belong to them. The natural explanation

¹ Liv. x. 8. 4. 'Semper ista audita sunt eadem—uos solos gentem habere.'

of this is that the Plebeians were formally members of the clan, but had no share in the 'Jura Gentilicia' de facto. This accounts for the attitude of both parties on the question—the Patricians affected to ignore the partial membership altogether, while the Plebeians endeavoured to insist on an equality in the clans with the Patrician members.

It remains to consider the composition of the curies. The Non-citizens and the Curies. Now the 'curia' was the important political unit in early Rome; its old local associations had disappeared and it was merely a collection of 'gentes' bound together politically. The probable origin of the curies has been discussed above; in some points they were closely modelled on the 'gentes'; there are traces of common property in the 'gens,' and in the 'curia' those traces are clearer still; they had common funds for some purposes, and had at their head a 'curio' who corresponded in position to the chief of the clan. Each curia had assigned to it a certain number of gentes, and if the Plebeians were not formally members of the constituent gentes, they can hardly have had any share in the curies, and the Comitia Curiata would thus have been an exclusively Patrician assembly. On this point there is practically no definite statement to guide us, chiefly for the reason that this assembly in historical times was nothing more than an interesting survival with no practical power at all. There is no tradition of the Plebeians gaining admission to it, and partly for this reason, partly because the body-politic of Rome is universally admitted to have been exclusively Patrician in early times, the statement has often been made that the Comitia Curiata was *always* composed exclusively of Patricians.¹ This is not correct; in fact all our evidence is strongly against it; the Comitia Curiata is nowhere stated to have been exclusively composed of Patricians.² Again the Comitia Curiata had to sanction 'adrogatio,' which could certainly be performed by Plebeian families in Re-

¹ See Prof. Seeley's Introduction to Livy, Book I.

² Cic. de Domo Sua, 14. The writer here mentions the institutions that would disappear with the Patrician order; 'itaque populus Romanus . . . neque regem sacrorum, neque flamines, nec salios habebit . . . neque auctores centuriatorum et curiatorum comitiorum.'

publican times; it would hardly have exercised supervision over Plebeian adoption, if Plebeians were not included. Finally the curies were under the presidency of 'curiones,' and this office we know to have been filled by Plebeians.¹

Patrum
Auctori-
tas.

The discussion has been complicated by the misunderstanding of the terms 'Patrum Auctoritas' and 'Patres Auctores fiunt' which may be discussed here. These terms refer to the sanction given to laws and elections in Republican times without which they were not valid. Who were these Patres? Many have accepted the Patres here as being the Senate, but this is irreconcilable with Livy's account of the passing of the Licinian laws, where Livy is evidently perfectly satisfied on the procedure of that period. After a great struggle, we are told, the measures were allowed to pass through the Senate, but this was not the end of the difficulty, because the 'Patricii' proclaimed that they would refuse their sanction.² It is quite clear from this that the 'Patricii' here were not the Senate. Hence it has been assumed that they were the 'Comitia Curiata' (which must therefore have been exclusively Patrician) and that this 'Patrum Auctoritas' was nothing else than the 'Lex Curiata de Imperio.' Against this is the fact already mentioned that our authorities say nothing of an exclusively Patrician Comitia Curiata. There is stronger evidence than this. Cicero in discussing the appointment of the kings mentions the passing of the 'Lex Curiata de Imperio'; Livy omits this Lex, but says the appointment was confirmed by the 'Patrum Auctoritas.' This does not prove the identity of the Lex Curiata and Patrum Auctoritas; it is really nothing more than a coincidence, for concerning Servius Tullius Livy says distinctly 'non commisit se patribus . . . sed . . . legem de suo imperio curiatam tulit,' *i.e.* he ignored the usual 'Patrum Auctoritas' but *did* get the Lex Curiata passed. Obviously they were not the same, and Livy confirms this when he talks of 'Patrum Auctoritas' needed for the resolutions

¹ Liv. xxvii. 8, 'Ita primus ex plebe creatus maximus Curio C. Mamilius Vitulus.'

² Liv. vi. 42, 'Patricii se auctores futuros negabant.'

of the 'Comitia Curiata.'¹ The 'Patres' then in this phrase were not the Senate, nor were they the 'Comitia Curiata.' Who were they? The difficulty lies in the fact that we know of no assembly of Rome composed exclusively of Patricians; but there must have been one. The silence of all the authorities about such an assembly is due to the fact that its functions had in their day, and for generations preceding, been pure formalities; these functions were the giving of the 'auctoritas' for all elections and laws (which had lost all practical importance by being made preliminary) and the election of the Interrex. Now Livy in describing the election of the first Interrex identifies the 'Patres' with the Senate, and it may be taken as quite certain that the Senate was originally purely Patrician. We may perhaps conclude from this that the Patres and Senate were originally identical, though they ceased to be so after the admission of Plebeian families to the Senate; that they were an assembly of the Patrician part of the Senate 'and that for religious reasons certain unimportant functions were left to these Patrician members when they had lost all practical superiority.'²

Much of this is purely conjectural; but it may be taken as certain that there is no evidence for the conception that the Comitia Curiata was restricted to the Patricians in *later* times. It may be regarded as equally certain that when the community of Rome was first formed by the union of the 'gentes' and the assembly of curies was first organised, none but members of the 'clans' (*i.e.* Patricians) were admitted. I have shown above how the Plebeians were probably admitted to the 'gentes.' They were at some time enrolled in the 'curies' for political purposes; but that they were members of the curies and voted in the Comitia Curiata on the same footing as the Patricians during the reign of the early kings, or indeed before the founding of the Republic, is highly improbable. At what time they did gain admission to the curies and to the assembly of curies there is nothing to show. There are two occasions that naturally suggest themselves. Tradition tells us that Rome passed at

Composition of the Comitia Curiata.

¹ Liv. vi. 41, 'Nec centuriatis nec curiatis comitiis patres auctores fiant.'

² Prof. Seeley's Introduction to Livy, Book I.

one stage under a dynasty of Etruscan princes, who are represented as showing particular favour to the non-citizen element in Rome: Tarquinius Priscus is said to have raised the Senate from two hundred to three hundred by the admission of Luceres on the same footing as the Ramnes and Tities, and further to have doubled the membership of the three tribes by ennobling Plebeian families.¹ Little faith can be placed in these details, most of which were an invention of later years to account for the occurrence of terms that seemed inexplicable. But it is possible that the reformer who first imposed on the Plebeians the burden of military service also admitted them to the 'curies'—a privilege that would be of very little practical importance under a strong ruler who took little account of the assembly of the curies. The occasion on which this admission of the Plebeians probably took place was the foundation of the Republic. Plebeians and Patricians had loyally combined to drive out the kings, and it is natural that the Plebeians may have claimed this right from the Patricians for their services. During the period of the kings, whether the Plebeians were on an inferior footing members of the Comitia Curiata or not, the Patricians and they alone were still, as they had been from the beginning, the true 'populus' or body politic of Rome; they alone were citizens; the Plebeians were merely tolerated in the State and protected. It is possible that they were in some way assigned to the curies for convenience in keeping the lists and collecting the money of those who paid the protection tax. How absolute was their inferiority in law, how near they approached to political non-existence is shown by the unbounded tyranny to which they had to submit as soon as the kings, the common masters of Patricians and Plebeians, were removed.

The need
of an
increased
army.

The Roman citizenship was regarded always as a great privilege not to be lightly granted to those outside the pale. In its original conception it involved a number of rights and burdens which were inseparable. Those who shared the rights of citizens bore the burdens that devolved on the members of the community, and the chief of these was the protection of their common homes against the neighbouring

¹ *E.g.* 'Minores gentes.'

tribes. Thus the Roman army was under the early kings formed exclusively of the full burgesses, the members of the clans, who formed according to tradition an army of 3000 foot and 300 horse which was called the Legion ('legio'—gathering). The resident non-citizens or Plebeians who had no rights were never called upon to serve in the army; the alien was tolerated and protected but had no share in the defence of the common hearth. But the Roman community seems to have expanded rapidly at the expense of the neighbouring Latins, and the small Patrician army became insufficient for the protection of Rome and the aggressive policy of its warlike kings. At the same time the number of non-citizens in Rome was rapidly increasing; for Rome was from the first a commercial centre. They paid a tax to the State, but it was the small Patrician army that ensured their safety, and the drain upon the limited clans of burgesses must have been severe. It was in these circumstances that the reforms of Servius Tullius originated. As to their date nothing can be said with certainty; but there are certain features which show close resemblance to the institutions of the Greek cities in Lower Italy, especially the adoption of land-ownership as a basis for distributing the burdens of the State—a system which came to prevail in the Greek colonies in the second century of the city.

Certain preliminary reforms are ascribed by tradition to Tarquinius Priscus, viz., the doubling of the cavalry, the creation of new 'gentes' out of Plebeian families to which the term 'Minores gentes' was applied, and the increase of the Senate by the admission of certain leading Plebeians. These reforms seem to have had a double purpose—the improvement of the military efficiency of the State (for the new 'gentes' would of course become full citizens and share the burden of military service), and the conferment of the favour of citizenship on some of the leading Plebeians. But the first of these objects can only have been very inadequately realised by the creation of a small number of new citizens and the sweeping innovations of Servius Tullius were urgently needed. There were two main reforms.

1. The creation of a new organisation of the State based

Reforms of
Servius
Tullius.

on locality side by side with the old gentile organisation which still continued. This new system was made the basis for the levy and for taxation.

2. The increase of the army which was effected by an entirely new division of the community, in which all owners of land were included,—citizens and non-citizens alike.

The
Servian
Tribes.

1. Servius divided the city into four divisions, called tribes—quite distinct from the three old tribes. These tribes were named after the divisions of the city which they embraced:—the Suburan, Palatine, Esquiline and Colline. The very names of these tribes show that Rome had spread far beyond its original limits, and was now an extensive city. It was probably in connection with this division that the Servian wall was built, though this embraced a considerably larger area than that indicated by the names of the tribes, for it included the Capitol and the Aventine. These tribes were not restricted to Patricians or full citizens. The great object of Servius Tullius was to increase the army of Rome, and with this view he enrolled in his tribes all who possessed land in quiritary ownership, that is to say all who had an indisputable title in law to landed property. All then who held land, Plebeians as well as full burgesses, were enrolled in the tribes according to the locality in which they lived. Now many of the members of the community must have lived as small farmers outside the city, and in later years we know that beside the four city tribes there were a

The Rustic
Tribes.

number of rustic tribes ('*Tribus Rusticae*') in which these landholders were enrolled. It has been assumed by some that these rustic tribes were also created by Servius Tullius, though they are not definitely ascribed to him by any of our authorities. The more probable view is that these rustic tribes were formed in the early years of the Republic, when the Roman territory began to extend rapidly after the end of the great wars which followed immediately on the expulsion of the Tarquins, when much confusion would have arisen by the inclusion of comparatively distant residents in the four tribes, and these tribes would have become unwieldy owing to the rapidly growing number of landholders.

as the conquered lands were from time to time settled or assigned to the citizens. This local division was a distinct innovation, and therefore was probably as simple as possible in its details, and if a local division was required, it was natural that these four regions should be adopted, since they coincided with the four early settlements which had gradually united to form the community of Rome. For, although some of the Plebeians and Patricians doubtless lived on their farms outside the walls, the Roman territory did not extend any great distance, and they could easily be enrolled among the tribes according to the direction in which their property lay without much danger of confusion, just as the Roman colonists of later times who retained their citizenship, were retained on the tribal list though several hundreds of miles away from Rome. There is no doubt that the creation of the four city tribes was the work of Servius Tullius; there is no direct evidence to show when the rustic tribes were formed.

2. *The Military Organisation.*—The members of the tribes, that is to say, the whole body of freeholders (with the exception apparently of those whose land did not come up to a very small minimum) were first split up into two great divisions, those between the ages of seventeen and forty-seven being called *Juniores*, and those from forty-seven to sixty *Seniores*; all alike (whether full citizens or Plebeians) owed service to the State in times of war, the *Juniores* in the field, the *Seniores* at home in defence of the walls. The new Army.

Now seeing that the *legio* had previously consisted only of the full citizens, it is clear that a far larger army thus became available. The *Equites* (cavalry) were constituted quite apart from the rest.

The whole number available for service was divided into five classes,¹ according to the size or value of their property, the richest being in the first class, the next richest in the second class, and so on. Each of these five classes was again subdivided into a number of centuries ('*centuriae*'), which formed the unit of military organisation, half of The division into Classes and Centuries.

¹ Originally the term '*Classis*' was restricted to the first class, the rest all being called '*Infra Classem*.'

which were filled with Juniores¹ and half with Seniores, the number of centuries being far greater in the first class than in the rest. Moreover the soldiers were differently equipped in the different classes; the richest classes had to bear the brunt of the battle, and were more completely armed both for offensive and defensive purposes. In addition to the actual fighting force, there were two centuries of workmen ('Fabri') who were attached to the first or second class, two centuries of trumpeters ('cornicines' and 'tubicines') and one of 'accensi,' substitutes who marched with the army unarmed, and had to take the place of those who fell in the ranks, equipped in their armour; these latter were certainly taken from the 'proletarii' or non-freeholders, and Livy regards the 'fabri' in the same light, their skill in work being apparently taken as sufficient equivalent for non-possession of freehold property; but this position is very doubtful; in fact, probability inclines to the supposition that a certain property qualification was needed for the 'fabri.' In all there were 170 centuries of infantry, which with 5 centuries of supernumeraries and 18 centuries of 'equites' brings the total up to 193.

Its non-
political
nature.

It will be noticed that this whole arrangement is conducted on military lines; the richer citizens were the better armed because they alone could afford to supply themselves with full bronze armour similar to that of the Greek Hoplite. The old political distinctions between the citizens and non-citizens were disregarded and the possession of landed property alone was taken into consideration. It was only in the case of the cavalry that any of the old political distinctions survived. The 'Equites' were entirely reorganised and brought up to the total of eighteen centuries; they were chosen by the king from amongst the most wealthy landowners, burgesses and non-burgesses alike, with this restriction, that the first six centuries were filled from the ranks of the Patricians alone. They were called the 'Sex Suffragia' (the six votes, a name which must have originated when the practice of con-

The
Equites.

¹ A difficulty arises with respect to the Juniores. Most of them were 'Filii familias,' i.e. sons still under the 'Patria Potestas,' and therefore had no property of their own, and yet they must have been enrolled in this assembly. Probably they were enrolled in their father's class.

sulting the centuries first began, and each century had a single vote), and this name survived down to late Republican times as an interesting relic of the time previous to the Servian reform when the whole army, infantry as well as cavalry, were Patricians. Each 'eques' was supplied by the State with two horses, and the money for these was obtained from the unmarried women, old men without children, and orphan boys under age who had the property qualifications which in the case of ordinary male citizens would have given the State a claim to their service.

The following table shows the traditional account of the new organisation of the army, or, as it came to be called afterwards, the *Comitia Centuriata*.

CLASSES.	CENSUS.	CENTURIES.	ARMS:—	
			Defensive.	Offensive.
Equites		6 Patrician 12 Plebeian } 18		
1st Class Fabri	100,000 asses	40 Seniores 40 Juniores } 80 2	{ galea clipeum ocreae lorica	{ hasta gladius
2nd Class	75,000 "	10 Seniores 10 Juniores } 20	{ galea scutum ocreae	{ hasta gladius
3rd Class	50,000 "	10 Seniores 10 Juniores } 20	{ galea scutum	{ hasta gladius
4th Class	25,000 "	10 Seniores 10 Juniores } 20	none	{ hasta verrutum
5th Class	12,500 "	15 Seniores 15 Juniores } 30	none	{ fundae lapides
Cornicines Tubicines Accensi ¹ }		3		
		<u>193</u>		

¹ I have followed Livy and many modern commentators in reckoning the Accensi as one century (*v.* Liv. i. 43, alluding to the 5th Class, 'in

The total 193 given here is found in Dionysius. Livy gives 194; but after mentioning the *Accensi* as one of the three centuries of supernumeraries, he adds '*Hoc minor census (those with a census below the 5th Class) reliquam multitudinem habebat; ex his una centuria facta.*' Now those *were* the '*Accensi*,' so that Livy apparently counts them twice and thus brings his total to 194.

There are several other discrepancies between the accounts given by Livy and Dionysius. The former gives the qualification of the 5th Class as 11,000 asses, the latter as 12,500. There is no reason to prefer one to the other, except that Livy's 11,000 is an anomaly. Again Dionysius places the '*fabri*' with the 2nd Class, Livy with the 1st. Cicero agrees in this point with Livy but makes them only one century; but he gives the total of the 1st Class, including one century of '*fabri*' and 18 of equites, as 89, leaving only 70 centuries of infantry. It is quite impossible to reconcile those conflicting accounts, or to be certain of any of the details.

As to the actual number of the equites it seems hopeless to try to arrive at any definite conclusion, so absolutely irreconcilable are the various statements on this point made by the ancient writers. Livy ascribes to Romulus the creation of 300 equites, raised to 600 by Tullus Hostilius and then again by Tarquinius Priscus to 1200, though they still continued to be arranged in six divisions as before, each now containing 200 men; these were retained by Servius Tullius. We are told that he created twelve more centuries of cavalry and if these centuries also contained 200 each, the total number of equites reaches 3600. There is a passage in Cicero (*de Rep.* 2. 20) which confirms the raising of the cavalry to 1200 by Tarquin; but then Cicero goes on to say that he doubled their number after conquering the *Æquians*. And Livy contradicts himself; for after giving an account which makes 1200, he remarks there were 1800 in the three centuries ('ut

his *Accensi*, *Cornicines*, etc.'). This reading has been changed to '*In his Accensis . . .*' *i.e.* In the 5th Class, the *Accensi*, were included the Trumpeters, etc. Those who adopt this give the name *Accensi* to the whole of the 5th Class. Where there is nothing to guide us I have preferred to keep the text as it stands.

mille et octingenti in tribus centuriis essent). The point is of no great importance; but it illustrates the difficulties surrounding any attempt to attain certainty with regard to any of the early institutions of Rome. There is nowhere to be found any definite statement of the number of equites even in Republican times.

The most vital point in this new organisation is the property basis on which the division was made. How were these figures arrived at and how far are they to be accepted? In the first place it is evident that Livy and Dionysius can have had no contemporary record on which to base their accounts. From the first, then, their details are open to grave suspicion, and were probably arrived at partly by conjecture, partly from records of the alterations made in the constitution of the *Comitia Centuriata* about 241 B.C. But it by no means follows that the assembly of 241 B.C. was identical with that founded by Servius Tullius—in fact it may be taken as certain that changes were made from time to time, and we cannot say how far the traditional account represented the truth. The most that can be said is that under the later kings the Roman army was entirely reorganised; that a property qualification was the basis of the reorganisation; that the unit of division was the century; and that from this origin sprang the politically important *Comitia 'Centuriata'* of later times.

The most striking detail in the traditional account of this institution is the pecuniary qualification. We may at once reject the qualification as given by Livy in money.¹ Of one thing we may be quite certain—coined money at this time was exceedingly rare at Rome if it existed at all; the original as itself was a ponderous lump of copper weighing twelve ounces, entirely unsuited for a currency, or for hoarding in large quantities; the medium of exchange in Rome was cattle and at a much later date fines and penalties at Rome were assessed and paid in cattle. That anyone should have actually possessed at this time such a sum as 100,000 asses

¹ Liv. i. 42, 'Ex iis qui centum milium aeris aut maiorem census habebant,' making no mention of *land* at all.

is palpably absurd; while the minimum qualification given by Livy as 11,000 asses is equally impossible in view of his remark that in the year 419 B.C. 10,000 asses was regarded as a very respectable fortune.¹

How then were these figures arrived at? It seems quite clear that they must have represented the estimated value of some form of property, and that the high figures are to be accounted for on the supposition that they were a later invention; that they were either a fiction, or represented the value of the property originally assessed at a time when the value of it had greatly appreciated. The view generally held is that only land² was taken into consideration, for we know that landed property formed the qualification for membership of the Rustic Tribes all along, and of the Urban Tribes down to the year 312 B.C.; and the original four Urban Tribes contained only those who were members of the centuries.

The valuation in money a later feature.

These figures given by Livy may be taken to represent the value of the original landed possessions at the time of the Punic wars, when the Comitia Centuriata was reorganised. There can be little doubt that there was originally *no valuation at all*; that landed property only was taken into account; that the classes were divided according to the size of their landed possessions; that the figures given by the authorities are of absolutely no value, at any rate for the earliest times; and that the very idea of a valuation of property in terms of coinage belongs to a much later date. As to the amount of land possessed by the different classes nothing can be said with certainty: Mommsen reckoning a 'jugerum' in later times at 5,000 asses, draws the conclusion that the property of the first class was twenty jugera and that this was regarded as the 'normal farm' or hide of land, the remaining classes containing those who possessed respectively three fourths, one half, one quarter and one eighth of the normal farm; further

¹ Liv. iv. 45, 'Indicibus dena milia grauis aeris, quae tum diuitiae habebantur, ex aerario numerata.'

² This is Mommsen's view. Others hold that cattle formed the basis of the valuation, one ox being regarded as the equivalent for 11,000 asses in terms of later coinage.

that "as the land happened to be thus apportioned, almost half the farms were entire hides," while each of the next three classes amounted to scarcely an eighth of the freeholders, and the fifth class to fully an eighth. There is much to be said for this view, but it seems to push the conclusion too far and to endeavour to attain exact results which the scarcity of our information does not justify.

The 'century' as the unit of organisation in this assembly ^{The} is beyond doubt one of its original features. For many ^{Centuries.} generations the number of centuries seems to have remained the same; but in the nature of things the number of land-owners with property of a definite amount must have been continually changing, so that the number enrolled in each century must have varied from year to year. It is clear then that the word 'centuria' was used in a loose sense, and probably this was the case from the first; it is most likely an old military term used to denote a small division in the army which nominally contained about 100 men. When the army was reorganised the name was kept and applied to the new unit without much regard to the number enrolled in it. Mommsen, however, reckons the century strictly at 100 men, and draws the conclusion that there were, roughly, 20,000 men capable of bearing arms. By adding 60,000 for the number of women and children we arrive at a total of about 80,000, and to support so large a population Rome must have already secured the land between the Tiber and the Anio. These deductions seem to be based on a wrong conception; for that the "century" was never a constant unit is shown by the divisions into Juniores and Seniores. The number of men between sixteen and forty-seven must have far exceeded the number of those between forty-seven and sixty; yet in each class they had the same number of centuries assigned to them.

The Comitia Centuriata was originally merely the full ^{The 'Ex-} assembly of the increased 'exercitus' organised on an ^{ercit'---} entirely new basis. In earlier times the Comitia Curiata had represented both the body politic and the army, and had ^{ata.'} exercised functions belonging to it in both these capacities; it sanctioned proposals involving any constitutional change,

it gave its consent to aggressive war. The latter duty now devolved on the new 'exercitus' which naturally took over all functions which the old burgesses had exercised as the burgess levy. But the Comitia Curiata was still regarded as the true burgess body; the old Patricians still continued to be the only citizens of Rome. By their side stood the clients and Plebeians possessed of land, who payed the 'tributum,' were liable to military service and all public burdens, but had no active political rights except a voice in the Comitia Centuriata; in return for these burdens they received exemption from the protection money they had hitherto paid which was hereafter exacted only from those who had no land and were consequently outside the tribes; these were called 'Aerarii.'

Advantages given to wealth and age.

There are two points in the constitution of the Comitia Centuriata deserving of notice, viz.—the advantage given to wealth and the advantage given to age. The total number of votes belonging to the first class and Equites together was 98 out of 193, an actual majority. Mommsen, who holds that the century really contained 100 men and was not merely a formal term, reckons the first class as containing 8000 voters, so that the preponderance of votes which lay with the first class and Equites combined really represented a numerical preponderance; hence no undue advantage was given to wealth. I have pointed out already that we cannot with safety draw any deduction as to the actual number of the voters from this division into centuries. If this inequality did not exist from the beginning we know that it soon sprang up, and that the reform of 241 B.C. had for one of its chief objects the removal of the advantage given to the wealthier citizens. Again the Seniores must have been far fewer than the Juniores, and so a distinct advantage was allowed to age. For it must be remembered that the voting was by centuries. The votes of the individuals in each century were first taken, and the majority determined the vote of the century. So that in the assembly the centuries all had equal voting power; and a century of 50 Seniores

had the same influence on the final decision as a century containing 100 Juniores or 10,000 Accensi. Moreover nothing shows more clearly the non-political nature of this institution at its origin than the exclusion of all over the age of sixty.

The contemporary institution of the four city tribes was ^{Not a} closely connected with this reform; its object was to facilitate the enrolment, which would be less difficult in four such divisions than with one unwieldy body of citizens. Servius Tullius did not, as is often stated, introduce a Timocracy. There is no real analogy between the Servian institution and the Timocracy of Solon at Athens. In the latter the eligibility to the offices of the State depended on the rating of the individual citizen; the property qualification determined the rights as well as the burdens of the citizen; in Rome there was no question of rights at all, and moreover inclusion in the centuries did not constitute the citizenship. No office was dependent on the possession of a fixed property, for there were no magistracies. The king was the one supreme executive officer of the State as he had always been, and he appointed his own deputies, who were no doubt chosen from the full Patricians; for it is inconceivable that one of inferior Plebeian rank should ever have been set to command full burgesses as the king's deputy. The Plebeians were no more ^{The} citizens in the true sense of the word than they had been ^{Plebeians} before; they were one step nearer to citizenship it is true, for they now began to share equally with the Patricians the burdens of the State and a claim to an equal share in its privileges was bound to follow. But for the present they got burdens only and no rights. The Servian reform then was not a Timocracy, nor was it intentionally a step in the direction of Democracy, nor an attempt to gain support for the Monarchy against the old citizens by placing power in the hands of the non-privileged classes. The old army was found to be insufficient and Servius Tullius was a military organiser, working under Greek influence, and finding his model not in the Solonian constitution but in the cities of Magna Graecia. There was no room for a political assembly in a State where the king was an absolute ruler.

The political importance of the Comitia Centuriata was an accident; it was never contemplated by its founder; in fact the very idea of a popular assembly with actual political power presupposes the disappearance of the Roman Monarchy. But after the expulsion of the king this assembly of the army became the sovereign power in the State, and by it the sovereign people expressed its will. Its organisation remained unaffected by all the changes in the Roman army; the political and military 'Exercitus' drifted further and further apart till in the great legislative assembly of later years the military origin of the Comitia Centuriata was forgotten.

CHAPTER II

THE FOUNDATION OF THE REPUBLIC

THE normal line of constitutional change in all the City Monarchy States of antiquity was from the rule of the one to the rule of the few, from Monarchy to Aristocracy. In the small States of Greece the monarchy lasted only as long as the king could command respect by his warlike prowess; there was a number of princely families round him, jealous of his position, and like himself claiming descent from the gods. Within the narrow limits of the city walls the king's faults and weaknesses were before the eyes of all; a long absence from home or a want of success in war was quite sufficient to give an occasion for treachery on the part of the nobles or to pave the way for his overthrow by destroying his prestige. The result was always the same; whether by a violent revolution, or gradual encroachments on the kingly power, the Monarchy disappeared, to be supplanted ultimately by an Aristocracy conducting the government by means of annual magistrates.

In Rome the result was the same. But the Roman Monarchy was far stronger than that of any of the Greek States. It has been pointed out above that the Roman conception of the king as an elected magistrate, exalted to his position by his equals, and governing in virtue of their delegation, is politically far more advanced than the vague shadowy relations of the Greek king to his subjects; the Romans had a definite word 'Imperium' which signified the supreme magisterial and military powers. Further, the Roman community at this time was far more populous than any of the early city States of Greece; and the larger the community is, and the more scattered its members, the less likelihood is there of any organised resistance to the supreme powers.

The population of Rome was already extensive at the end of the sixth century B.C.; the greater part no doubt were farmers and landowners who lived on their lands and tilled their fields in the neighbourhood of the city; individual acts of oppression did not come home to every member of their scattered body as they did in the smaller city-states of Greece.

The last
Kings of
Rome.

It is impossible to put any faith in the detailed account given by tradition of the expulsion of the kings; but the general outlines of the Tarquin tradition coincide so closely with the probabilities of the case that they are generally accepted. All indications point to a sudden end of the Monarchy at Rome, brought about by the oppression of the king. The original king of Rome had been elected by his peers, and as long as this idea of fundamental equality was preserved, both by the king and his subjects, the Romans were safe from oppression. But the last three kings tried to found a dynasty. It is highly probable that they were of alien race, and therefore the less likely to sympathise with or appreciate the peculiar Roman idea of a king. It is clear that a hereditary kingship strikes at the very root of the Roman conception of Monarchy, by abolishing the voice of the *populus* which was the ultimate repository of the sovereignty. And with each hereditary successor to the throne the more must the old Roman model have fallen out of sight, and the idea of a king ruling over subjects by right of birth have supplanted the conception of a magistrate ruling over his peers in virtue of their mandate. When the fundamental conception of the Roman monarchy was once lost sight of, and the greatest moral check upon the king thus removed, it needed only a strong and determined ruler to turn the Constitutional Monarchy to an open Despotism, and such was the last of the Tarquins. The powers of the king were practically unlimited; the one actual check upon him hampered only his freedom of legislation, leaving his administration unfettered, and it is not by legislation that an absolute ruler oppresses his people.

The rule of Tarquin. The very charges brought against Tarquin¹ show the weak points of the Kingly Constitution; he ascended the

¹ I. iv. i. 49.

throne without the consent of the people, and neglected to obtain the sanction of the 'patres'; he sat alone to judge cases involving life and death, and by this means was able to drive into exile or put to death his enemies; he neglected to fill the vacant places in the Senate, and he was the first king to ignore the traditional custom of consulting them; war, peace and alliances he made at his own pleasure, without enquiring the will of Senate or people. This list of misdeeds shows the flimsy nature of the checks upon the king, for not one of them is an actual violation of his constitutional power, except his method of gaining the throne; even in this point there is little doubt that the formal consent of people and patres would have been forthcoming, for it would have been no easy matter to dislodge a usurper with a strong party behind him. But on the rest of the indictment Tarquin stands acquitted of any actual violation of the constitution—he and he alone was supreme judge; the Senate theoretically depended on him for its very existence; the limitations on his powers were imposed by custom not by law. That Tarquin was guilty of oppression and injustice admits of little doubt, but the fault lay in the nature of the Roman Monarchy. Such absolute powers as those implied in the Roman Imperium render oppression possible if they do not actually encourage it; a limit must sooner or later have been imposed upon these powers, and the tyranny of Tarquin gave the occasion for a change which was imperatively necessary for the welfare of Rome. The king was expelled; the whole of the Tarquin 'gens' shared his banishment; their property was confiscated; and the very word 'Rex' was ever after regarded with undying hatred by the Romans.

The actual nature of the revolution must remain doubtful; we can only conjecture the course of events. But two points are worthy of notice: firstly, practically all the power of the State after the expulsion of the king lay with the Patricians; secondly, the Comitia Centuriata appears for the first time as a political assembly; it took over most of the political power of the Comitia Curiata, in particular the right of electing the supreme magistrates, sanctioning legislative proposals, and hearing appeals. It is clear then that the result was in no

The nature
of the Re-
volution.

The
Aristo-
cracy and
the Re-
volution.

sense Democratic ; the revolution was not the rising of an infuriated people burning under the sense of injustice and determined to take the government of the State into their own hands. In Rome as in the Greek states it was the well-born families who led the attack on the kingly power. By their side would stand many of the wealthier Plebeians who saw that the first step to political equality must be over the downfall of the Monarchy. It was a fortunate accident for the Patricians that the long and cruel reign of Tarquin had roused the indignation of the whole people and enabled them to gain the support of the army. The mass of the people joined the opposition to the king not with any idea of supplanting the Monarchy by a Democracy or of taking the administration of the State into their own hands ; they desired merely to remove the oppressive tyranny of the king, to bring about a change in the form of government. The combined forces were victorious, and the Patricians kept the chief fruits of the victory for themselves. But the army without which they could have done nothing had to be satisfied, and therefore the power of electing the supreme magistrates was left to the military assembly ; and the Patricians could make this concession with the greater equanimity because the great advantage given in its organisation to wealth assured them the command of the votes.

The Inter-
regnum.

The expulsion of the Tarquins must have been followed by a period of great confusion. The first step was undoubtedly an Interregnum ; how long it lasted we cannot say, but in the terrible struggles which followed so closely on the overthrow of the monarchy it was not possible at once to evolve an orderly form of government. The problem to be solved was not an easy one ; the one political conception of the Romans was embraced by the word 'Imperium' ; and the revolution had aimed not at limiting the actual powers which this idea conveyed, but at so changing the tenure of the Imperium as to gain security against its abuse. For the Romans were always an intensely conservative people. Their conception of the State was founded on that of family ; both must have a master, and that master must have complete power of administration ; the very idea of an executive magistrate acting

under the instructions, and liable to the interference of the citizen assembly would have appeared ludicrous to a Roman. Naturally their conception of the Imperium was modified as time went on, just as the strictness of the Patria Potestas was diminished ; but for many generations they clung to the idea of the one indivisible Imperium in the State, when in practice it had ceased to exist.

First of all the life-long office of king was abolished ; but even here Roman conservatism stepped in and they created the 'Rex Sacrorum' (king for sacrifice), who received none of the political and only a few of the less important religious functions of the king. It was a mere name, invented to secure the continuity of the relations of the community with the gods. This post was always filled by a Patrician and disqualified him for all other offices in the future. The new Government.

The administrative powers of the king were given to two magistrates ('consules') annually elected by the community from the ranks of the full citizens or Patricians, and this is the first appearance of Collegiate powers at Rome in the sphere of Politics. The powers of the king which went to make up the Imperium were not abolished, nor limited by any legal enactments ; they were simply transferred as they stood to the two magistrates, each of whom possessed the full powers in his own right. There was no division of the Imperium ; there was not necessarily any partition of the State work between them, though it was no doubt regarded as an advantage to have one to command in the field and another to govern the city in time of war. Any such arrangement as this was purely accidental. Each Consul received the full undivided Imperium of the king ; each of them could undertake any operation, whether military or civil, that fell within their sphere. There is no analogy to this Roman invention of collegiate power. The Archons at Athens for example divided the administrative work on a fixed principle, one taking the command of the troops, another the supervision of religion and so on. But at Rome each Consul had universal competence. It was quite possible for them to take opposite views and come into conflict in any branch of administration. In such cases the rule, universally applied The Consuls.

to collegiate authority at Rome, held good that the "no" took precedence over the "yes," and nothing was done.

Their
powers.

The Consuls then stepped virtually into the full powers of the king. They led the armies in war, they were the supreme judges of the State, they took the Auspices and offered sacrifice, they were the supreme executive officers of the State. It was in the circumstances of their power,¹ not in any actual diminution in the range of their powers, that the difference between the king and consul consisted. In the first place the king had held office for life, the consul was under the obligation to lay down his power at the end of the year. But just as it was impossible without a revolution to remove a king when once he had been entrusted with the government, so the consulship ended only when the consul *voluntarily* laid down his power. The community could not depose a consul, nor could they deprive him of his office at the end of the year; he laid it down of his own free will and proceeded to nominate his successor.² There was no law to force the consul to resign at the end of the year; but there are no authentic instances of any consul venturing to overstep this limit. In this point again the Romans were endeavouring to reconcile the theory of the kingship with the practice of the consulate; and this same phenomenon is visible in the law of appeal which is traditionally regarded as the first law of the Republic. The king had been allowed to grant 'provocatio' (right of appeal) to any condemned criminal if he pleased; the consul was *bound* to allow it in cases when a sentence of death or corporal punishment had been passed except under military law. Here too the Romans endeavoured to keep the judicial irresponsibility of the king theoretically unfettered in the case of the consul, while practically imposing a check on him; consequently he incurred no penalty by ignoring this right of appeal beyond 'infamia,' which was at most nothing but a moral stain.

Appoint-
ment of
Consuls.

For the appointment of a successor the consul called

¹ Liv. ii. 1, Libertatis autem originem inde magis quia annum imperium consulare factum est quam quod deminutum quicquam sit ex regia potestate numeres.

² Cf. the phrase 'Abdicare se magistratu.'

together the centuries and consulted them. It was usual for him to appoint those on whom the choice of the people fell, but he was legally under no compulsion to do so. The position of the consul on this occasion was exactly that of the Interrex in the appointment of a new king. The people might elect the candidate, but the 'potestas' must pass to him directly from someone still holding it,¹ who laid down his own magisterial power in the very act of transmitting that power to the successor whom the people had nominated. But again we find theory at variance with practice; the presiding consul was not a mere returning officer; he could refuse to receive the name of any candidates he pleased, and he was not in law bound to nominate the successful candidate. This power was however very seldom exercised. There is one well-known example in the time of the second Punic war, when Fabius refused to accept the verdict of the centuries and sent them back to vote again—a course which could only be regarded as justified by circumstances of great necessity. *In fact* the appointment of the consuls lay with the centuries and there was little likelihood of any necessity for the consul to disregard the will of the assembly, since the advantage given to wealth practically ensured the return of candidates whom the aristocracy would approve.

The king had been accustomed to delegate his powers at pleasure, judicial, administrative and military; practically he only delegated them when he was unable to undertake the work himself. In the army he named all the subordinate officers; for the government of the city he appointed a 'Praefectus Urbi' when he was away from Rome; criminal trials he could delegate to the 'Quaestores Parricidii.' All these officials held their posts simply as delegates of the king; the king as the only holder of the full Imperium was the source of all administration. The theory of the consulship led to the retention of the same procedure. In military matters the consul was left quite untrammelled;

Delegation
of powers
restricted.

¹ Cf. the case of the Dictatorship; in early times the Dictator was always nominated directly by a Consul; subsequently, when the Senate selected the Dictator, he always received his power from the Consul who nominated him.

he appointed all subordinate officers for the army just as the king had done. In the other departments the freedom of delegation which had been allowed to the king did not continue; the comprehensive office of 'Praefectus Urbi' disappeared, chiefly because there was no reason for it now that the State had two supreme magistrates; the 'quaestors' became annual officials,¹ and were intrusted with the care of the State treasury and the records—functions which had hitherto belonged to the king. In this respect then the power of the Consuls was in practice appreciably lessened; but in order to keep up the fiction of the 'Imperium' these powers were not taken from the Consuls and given by the State to subordinate officials—the latter must derive their power directly from the only source of administration, and the Consuls were ordered to delegate these powers to the Quaestors, who of course lost them directly the Consuls went out of office.

The Dictatorship.

In spite of all efforts to preserve the appearance of identity between the consular and kingly Imperium, the difference between them in practice was keenly felt. Circumstances might arise where it would be expedient to have some absolutely unrestricted power in the State, and so in case of extraordinary difficulties, whether caused by war or internal troubles, the Consuls were empowered to revive the old kingly power in its entirety by the appointment of a Dictator who held office for six months. He was nominated directly by the Consul and himself appointed a Magister Equitum. In all points, except the time limit he resembled the king. There was no appeal from his sentences, and on his appointment all the other magistrates ceased to exercise their powers independently.²

Appointment of Pontiffs and Augurs.

One important distinction appears between the powers of the Consul and the King—the power of nominating the Pontiffs and Augurs which had belonged to the king was never granted to the Consul. The State religion was removed from under magisterial control, and the vacant

¹ See Note on p. 8.

² Tradition gives the year 501 B.C. for the appointment of the first Dictator. The occasion was the great Latin war which broke out soon after the expulsion of the Tarquins.

places were filled by the priestly colleges themselves by co-optation. As supreme superintendent of the State religion there was appointed now the Pontifex Maximus,¹ chosen by the other Pontiffs. This innovation seems to have been made in the interest of the ruling aristocracy as a useful check on the magistrates, for the Patricians were of course alone eligible for these priesthoods, and the principle of co-optation gave them a close aristocratic stamp. Their opinions were regarded as final on all matters appertaining to religious observances, and any meeting held by the Consul, together with all measures passed at such a meeting, could be nullified entirely by the Augurs finding a technical flaw in the performance of the Auspices which always preceded a meeting of the people.

It is clear that no great change took place in the powers of the government in consequence of the revolution; but though these remained practically what they had always been the community did gain something. Apart from the fact that they were freed from those burdensome taskworks, such as the building of walls and tilling of the king's lands, to which they had hitherto been liable, the Plebeians now received a share in three privileges: firstly, the final decision in capital cases; secondly, the election of the annual magistrates; thirdly, a vote on legislative proposals. These powers were conferred not on the old Comitia Curiata, but on the military assembly, and the Comitia Centuriata entered on its great political career. It was doubtless by the aid of the army that the aristocracy had been enabled to expel the Tarquins; Patricians and Plebeians had stood loyally together, and the latter might reasonably expect to see some of their political disabilities removed. Their claim in these circumstances was irresistible, and now for the first time they acquired political rights. But these were given with a grudging hand, and two centuries of almost incessant strife were to pass before the last of the Patrician privileges dis-

The Revolution a gain to the Community.

Position of the Plebeians.

¹ The Pontifex Maximus was a curious mixture of Priest and Magistrate. He was in a certain sense the High Priest of Rome; but among his duties the most important was the knowledge and preservation of the traditional oral law according to which justice was administered.

The
Comitia
Centuri-
ata.

appeared. The Plebeians were admitted to the Curies,¹ and were thus allowed to vote in the Comitia Curiata—a privilege which had hitherto been restricted to Patricians alone. But the concession looked far more important than it really was, for from that time the political influence of the Comitia Curiata entirely disappeared. It was necessary that it should be so; there were no distinctions in the curies; all the members were on a footing of equality, and therefore the Plebeians (who of course included the Clients) would be in a majority, and the Patricians might at any time have been out-voted. It was partly for this reason, partly with a view to conciliating the army by a direct concession, that these privileges were transferred to the Comitia Centuriata, where the wealthy citizens were sure of a majority. From this time the Comitia Curiata fell more and more into the background; it still passed the formal 'Lex Curiata de Imperio' without which the Consuls could not exercise any military functions, and it still met to sanction 'adrogatio' (adoption) and to hear testaments read; but its political activity was past, and in the later Republic it was represented when needed for some formality by thirty Lictors. Henceforth the Comitia Centuriata represents the People.

Civitas
of the
Plebeians.

The Plebeians had hitherto been outside the pale of the citizenship. They now for the first time became citizens in the true sense of the word; they not only served in the army as before, where they constituted a majority, but they now had certain definite rights. They had a vote in the assembly, they had right of appeal against capital sentences; they were no longer mere passive citizens ('cives sine suffragio'); they formed part of the burghess body of Rome. But they were in no sense *full* citizens; they had almost the smallest rights compatible with the possession of the 'Civitas.' Still the advance meant much to them; they were no longer a separate community tolerated in Rome by the citizens, but an integral part of the State.

The
Patricians.

Hitherto the Patricians, and they alone, had formed the burghess body; their position was now entirely changed. They became a privileged class of citizens, a close caste carefully

¹ See p. 24.

maintaining the purity of the order by the prohibition of marriage with anyone outside the pale, and retaining in their hands all the offices of state. Tradition places the closing of the Patrician order about this date, the last clan admitted being the Claudian 'gens' in 503 B.C. From this time it became a close corporation jealously guarding its rights and privileges against the Plebeians. No subsequent addition to the Patriciate is recorded till 28 B.C. Intermarriage within a small circle had its natural consequence; their numbers began to decrease while the growing community outside was clamouring for admission, and the rich Plebeians who had been conciliated by admission to the Senate did not consider this privilege a sufficient compensation for their many political disabilities.

The body which was destined to play the leading part in The government of Rome during the next four centuries has yet Senate. to be considered. Under the kings the Senate had been a body of advisers chosen by the king and consulted on all important affairs. The selection lay absolutely with the king, and tradition tells of leading Plebeians being admitted. The Senators held office for life, and rose to considerable importance even when overshadowed by the unrestricted power of the king. The last Tarquin is said to have ignored the Senate and to have failed to fill the vacant places, with the result that 136 Senators only remained at the time of his expulsion, out of the normal 300; the 164 vacant places were filled, we are told, by the inclusion of the wealthiest Plebeians, to whom was given the name *Conscripti*, in contrast with the 'Patres' (the Patrician members of the Senate), the official designation of the whole assembly henceforth being *Patres Conscripti* (a contraction for *Patres et conscripti*). This account is not to be trusted; it was an invention of later years to explain the term 'Patres Conscripti'; but the very need of inventing this explanation seems to show that the word 'Patres' alone (*e.g.* in the phrase '*Patrum Auctoritas*') was conceived as applying exclusively to the Patrician members. The Senate under the king had been an informal body; it was necessary in the interests of the Aristocracy that such unlimited power of choice and rejection should not in practice be vested in the

Consul. A definite list of the Senate was now for the first time drawn up, and to them was given the name 'Patres Conscripti,' Senators on the roll. The term is found in provincial towns applied to the roll of Senators, where there is no trace of any such tradition. It may of course be that the name was adopted from Rome; but we know that there was a very close parallelism between the institutions of Rome and the neighbouring Latin communities from the earliest times.¹

Plebeians
and the
Senate.

Ancient tradition is unanimous on the admission of Plebeians to the Senate, but the number 164 must be rejected at once. It is on the face of it inconceivable that the Plebeians should have been allowed by the Aristocracy at this time actually to gain a majority in the Senate. The wealthy Plebeians could not have been kept in a position of inferiority for so long in these circumstances, nor would the Patrician Consul who chose the first Senate under the Republic have selected 164 Plebeians to fill the vacant places. It is quite possible that some few of the wealthier Plebeians were conciliated by the gift of a seat in the Senate, for they had really more in common with the rich Patricians than with the poor members of their own order; and there may have been a precedent in the admission of a few Plebeians to the Senate under the kings, who would be much more likely to take such a course than the Patrician Consul.

Increased
influence of
the Senate.

In their dealings with the Senate the Romans displayed that same conservatism which is seen in every feature of this revolution. The composition of the Senate, the summoning of it for consultation in affairs of state, were in theory left entirely to the discretion of the Consul; the Senate was not put on any new legal basis. The theory of the constitution remained the same, but in practice the position of the Senate was entirely different; it grew in power, not at the expense of the community, but of the magistrates. The life tenure of power by the king, and his consequent irresponsibility, had lifted him high above the level of the ordinary Senator; but

¹ Mommsen, in his history of Rome, accepts the tradition of the origin of the term 'Conscripti,' and identifies them with the 'Senatores Pedarii.' According to his view they were allowed to vote, but not to speak in the Senate, see p. 225

the Consul was merely a Patrician temporarily raised to the command, and liable to be called to account by the members of his order when his period of office had expired. He remained a citizen while he was Consul; he had no State robes or official palace like the king; he was distinguished from other citizens only by the purple stripe on his toga, and his attendants ('lictors') within the city walls were forbidden to carry in their 'fasces' (bundle of rods) the axe which had typified the absolute power of the king over the lives of the burgesses. After he had resigned the Consul descended again to the level of the ordinary Senator, and in this position spent most of his political life. It was natural that in these circumstances he should be animated by the same political and social ideas that prevailed among the Senators, and this is the origin of the unwavering loyalty of most of the Patrician Consuls to the Senate; they were Senators first and magistrates afterwards; and not only did they not resist, but they loyally assisted the continual encroachments of the Senate in all branches of the administration.

This change was gradual; but from the very beginning of the Republic the Senate stood in a more independent position than under the kings. The noble magistrates could naturally not exercise the same freedom in constituting the Senate or rejecting its members as the absolute kings. Again it came to be the recognised practice for all ex-consuls to pass into the Senate on the expiry of their magistracy, so that that body gained immensely in prestige and actual influence by the inclusion in its ranks of all the administrative experience of the State. Its altered position was soon asserted; it rapidly became an accepted principle that all proposals submitted to the people should first of all be sanctioned by the Senate; then, the Senate being a permanent body and the magisterial college annual, all acts likely to have a permanent effect on the community, such as the making of treaties (in which the people had no voice), came to need the Senate's consent.

If the time-limit now imposed on the holders of the Imperium gave additional influence to the Senate, there was another feature that tended even more in this direction

and that was the practical multiplication of the magistrates. Already the theory of the indivisible Imperium was being violated in practice, and the management of the Finances, which had belonged entirely to the king, had been given to the two Quaestors, nominated by the Consuls. These of course were Patricians, and though owing their position to the Consuls, were unlikely to run counter to the traditions or wishes of their order; and thus the Senate from the first acquired a great influence over the financial administration; for the Quaestors, holding an inferior position, and being mere delegates of the Consul and not elected magistrates, were naturally more dependent on the Senate in their own province than the Consuls would have been.

The
Plebeians
and the
new Go-
vernment.

The expulsion of the kings was fundamentally a conservative revolution. There is no sign that the unprivileged multitude, the Plebeians, had in view any form of political equality; on the contrary even in later years a certain apathy in the multitude with regard to their political inferiority is noticeable in all their struggles with the Patricians. Just as in later times it was the desire for social rather than political equality that roused them, so it was a desire for just administration and not political considerations that induced them to help in expelling the kings. It was exactly this object that they failed to achieve; they helped to bring about a change in the government without much lessening its powers, or its opportunities for oppression against themselves. True the new magistrates were fettered on all sides in their relations to the *full burgesses*, but it was they and not the multitude who held the checks. The Senate had to sanction all measures before they went to the people, and even then the consent of the Patrician Convention (*Patrum Auctoritas*) was necessary before the measure could take effect; thus a popular Consul (if such an anomaly can be conceived at this time) was helpless. In fact the Patricians ruled the State by the Consuls, the Senate and the Patrician Convention; all administration lay under their influence and in the hands of their members; the religious ordinances of the State were supervised by close colleges of Patrician priests; they were the reposi-

taries of the oral law according to which justice was administered.

The Patricians had emancipated themselves by the Revolution, the Plebeians had for the present only changed masters. As concerned them there was more significance for the future than present advantage in the change. One great gain was the right of appeal, which, however, was only a protection in sentences to capital or corporal punishment duly passed by the magistrates. But their political rights were of little immediate advantage; they had gained a vote in the election of the Consul, and in all constitutional changes (*i.e.* practically in all legislative enactments)—powers which had hitherto been exclusively in possession of the Patricians in the Curiate Assembly. These powers availed but little to secure them from oppression, for the assembly could only be summoned and addressed by the Patrician Consul, who alone could bring proposals before it, and the Plebeians were not likely to secure the passing of any measure against the united forces of the wealthy classes. The real importance of the revolution for the Plebeians lay in the transference of political functions from the old *Comitia Curiata* to the great military assembly in which they had a share. This meant a wide extension of the Roman citizenship; the abolition of the old narrow birth qualification in favour of a freehold basis; the recognition that Patrician descent was not to be the one and only claim to what the State had to give, but that those who settled at Rome, who acquired a permanent interest in the State's welfare by the possession of land, and helped to maintain the integrity of Rome against her enemies, were entitled to a higher position than that of mere protected aliens. The Patricians might continue to oppress them, and dispute their advance step by step with all the dogged obstinacy of an exclusive aristocracy; but the first election of Consuls in the *Comitia Centuriata* was not so much the mark of a triumph over the Monarchy, as a faint sign that the first barrier had fallen, and that the unprivileged multitude though unconscious of the fact had already begun their march towards social and political equality.

CHAPTER III

THE STRUGGLE BETWEEN THE ORDERS—FIRST PERIOD

Rome in
the first
years of the
Republic.

UNDER the kings Rome had been gradually rising in importance at the expense of the neighbouring communities; the expulsion of the Tarquins was followed by a period of disaster. Rome had to bear the brunt of the attack of the Etruscans who were at the height of their power. Tradition connects this war with the attempt to restore Tarquin; they were quite distinct. The war with Rome and the capture of the city, of which there are traces in the traditions only imperfectly concealed, were simply episodes in that last great outburst of expansive energy in the Etruscans which gained for them all the land to the North of the Tiber, and carried their victorious arms into the South of Latium.

Patrician
misgovernment.

With a great war against the Etruscans on their hands, and the confusion caused by a revolution rampant within the state, it could hardly be expected that this period would be distinguished by good administration on the part of the few, or content on the part of the many. Rich and poor alike were sharing the common dangers in the field, and the political distinction between the privileged Patricians and the inferior Plebeians must have become daily more galling. The hope with which the unprivileged multitude had joined the revolution had not been realised; they had gained a political position of which they did not appreciate the importance, and had failed to find the just administration they looked for. The Patricians proved to be no more merciful than the king. They formed a ruling caste, based as all castes are largely on religion, for it was on religious grounds that the Patricians always rested their opposition to the political claims of the Plebeians. In later times this was a mere

excuse; but in these early days of Rome when religious considerations seriously affected almost every affair of daily life, when nothing could be undertaken without duly consulting the will and obtaining the approval of the gods, it was more than a mere pretext for political ends. There is every reason to think that in the beginning of the struggle with the Plebeians the Patricians really regarded themselves as the only true depositaries of religion; they thought that the descendants of the original citizens alone had the power of consulting the gods of Rome and that the interference of Plebeians with the Auspices must alienate the favour of the gods.

Apart from the monopoly of State religion the Patrician caste had four other characteristics; the membership of their order was hereditary; they were a closed corporation, admitting no new members; marriage outside the caste was not recognised as legal, and the offspring of such unions were not received as Patricians; finally they had exclusive possession of the professions; they alone were the priests, generals, judges, lawyers and administrators of Rome, whose first and foremost consideration in everything was the interest of their own order.

The course of events in the first forty years of the Republic shows the natural results of such concentration of power in the hands of an aristocracy conscious that their position was liable to be assailed. In pursuance of their exclusive policy they ignored the rights of the Plebeians as soon as they had consolidated their own power. A few trifling instances are seen of help afforded to the multitude, such as the distribution of corn in time of famine; but the general tendency of their policy was to keep in utter subjection those outside their own order. The lands which came into the possession of the state by the victories of the Roman armies were not assigned any longer to Plebeians, as they had probably been to some extent under the kings, but were restricted to the full citizens; in strict law they alone had the 'Jus occupandi agrum publicum' (the right of settling on public land), for the limited citizenship of the Plebeians conferred on them two rights only, the 'Jus suffragii' (right

of voting), and the 'Jus provocationis' (right of appeal).¹ The general administration of the newly acquired state lands, together with all the property of the Tarquins which had been confiscated, devolved theoretically on the Consuls, practically on the Senate. They gave all the benefits of it to their own order. Most of it was held in ownership by the state, and individual citizens were allowed to use this land on condition of paying in case of grazing land a certain sum of money per head ('scriptura') for the cattle pastured on it, in case of arable land a tithe ('decumae') of the produce. These payments were allowed to lapse and the Patricians thus came to enjoy a valuable privilege while the state was being defrauded by them of one of its chief sources of income.²

The
question
of debt.

Now while under the administration of the Patricians the political distinctions between the privileged and unprivileged classes were becoming sharper, the distinction between the rich and the poor was growing equally accentuated. The constant border wars were bringing ruin on scores of those small freehold farmers who formed the majority of the Plebeians; there was no currency in Rome; the medium of exchange was cattle; and the small yeomen often woke in the morning to find their crops destroyed by a border raid, their cattle carried off, and nothing left but the bare land which formed their holding. In this difficulty they were forced to apply to the capitalists (either Patricians or wealthy Plebeians) to stock their farms again, and to do this it was necessary for them to mortgage their land. There was still every likelihood of a recurrence of their former disaster, and another application to the capitalists for assistance. This meant a thorough demoralisation of the formerly independent farmer class, many of whom merely continued to farm their lands by the forbearance of their creditor, who could at any moment foreclose and deprive the debtor of his farm. But many of them were

¹ The remaining rights which went to make up the full citizenship were the 'Jus honorum,' right of holding office, and, 'Jus auspiciorum,' the right of taking the auspices. See p. 19.

² For method of Dealing with the Public land, see pp. 104 and 189.

in a worse case than this owing to the terrible severity of the early law of debt. If the property available for seizure did not cover the amount of the debt, and there was nothing else to seize, the creditor proceeded against the person of the debtor. Thirty days grace were allowed, on the expiry of which he could seize the debtor, who passed into his possession ('in manum'). There were two classes of prisoners for debt, the 'addicti' and the 'nexi'; the former were those who had become prisoners for debt in consequence of their having been assigned ('addicti') to their creditor by a magistrate; the 'nexi' were those whose persons had been seized by the creditor for non-fulfilment of a contract entered into with special formalities to which the name 'nexum' was given. The procedure in each case was much the same, except that those who had made their contract with the formality of the copper and scales ('aes et libra'), *i.e.*, who had entered into a 'nexum,' could be seized by their creditor without any judicial investigation; but in their case the latter's powers were more limited. When the debt had been contracted without such formalities, the debtor was seized after thirty days' grace and conveyed before a magistrate who gave judgment for the sum claimed if the proofs were sufficient. If the debt was not paid, the creditor could load his prisoner with chains and keep him for sixty days, and on three successive market days took him to the Comitium to proclaim his debt. At the end of that time he could kill him or sell him as a slave across the Tiber. If the formalities of the 'Nexum' had been observed and the debt was not discharged, the creditor could on his own initiative set the defaulter to work in his fields, imprison or chastise him, but he could not sell him or put him to death. For all practical purposes he was a bondsman; but *in theory* he retained his citizenship and continued to serve in the legion. *In fact* his citizen rights were suspended until the debt was paid, when he again stepped into all the rights he had exercised before.

In this procedure for debt lay the opportunity for unlimited Its political oppression of the poorer classes. The creditors were generally cal aspect. Patricians, always men of wealth; in those cases where the

matter had to be brought into court before the seizure of the debtor's person the magistrate who gave the verdict was a Patrician; there was no published code, and the knowledge and interpretation of the law lay entirely with the Patricians. The Plebeians had no protectors; there was no one whose business or whose interest lay in assuring them a fair administration of the law, and there were no means of hindering any abuse of the creditor's legal powers when once he had got the person of the debtor in his hands.

Helplessness of the Plebeians.

The position of the Plebeians fifteen years after the expulsion of the kings was far worse than it had ever been under the tyranny of Tarquin. The selfish policy of a close aristocracy was infinitely more oppressive, and the feeling of discontent was intensified by the knowledge that the rulers of the State owed their position to the co-operation of the Plebeians themselves. The compact between the orders had not been kept. The political concessions were practically useless for protection against the high-handed tyranny of the Patricians and their magistrates. Meanwhile Rome was fighting for her very existence against the Volscians and the surrounding tribes, and the distress of the small farmers was every day increasing. The Plebeians might well complain that "their liberty was safer amid the swords of the enemy than among their fellow-citizens." But how were they to gain redress? They had no separate organisation; they had no leaders to champion their cause; the assemblies in which they shared met only to vote, not to discuss, and were entirely under the management of the Patrician magistrates, who alone could summon the *Comitia* and address proposals to them; even a '*contio*' (an informal gathering) could not be held without their permission. Livy has given a dramatic account of the actual outbreak, but the details are not to be trusted; there is a Valerius, a kinsman of the great *Poplicola* (the mythical author of the early law of appeal) who championed the people, and the inevitable Appius Claudius who advocated extreme measures and upheld the privileges of the aristocracy, and all the other features which have become familiar in Livy's account of the struggle between the orders. It is

not hard to extract some measure of truth from his account ; the final blow came from the army, where alone the Plebeians met together and could resolve on some united plan of action ; they drove out the Consuls and under some of the Military Tribunes (who may have been Plebeians, for their appointment was due to military, not political, considerations), they marched to the hill at the junction of the Tiber and Anio, about three miles from Rome, where they announced their intention of founding a new city and leaving the Patricians to themselves in Rome. This desertion of the city by a great part of the community was a political argument which has no parallel elsewhere, and which never failed to impress even the most bigoted opponents of the multitude in Rome with the necessity of concession. The course of affairs on this occasion is obscured by legends such as that of Menenius ; the healing of the sedition was probably effected by Manius Valerius, the Dictator.

The First
Secession,
495 B.C.

It is to be observed that this secession was not due to political causes ; the object of the Plebeians was not to secure political privileges, and the multitude was not yet ready to fight for political advantages that would benefit only the small wealthy section of their order. The outbreak was caused by the distress of the small farmers, and the actual oppression of the ruling aristocracy ; it was social and economic distress, not political disabilities that gave occasion for the secession of 495 B.C. The great result was the creation of the Tribunes ; but the importance of this was never foreseen. The main object of Patricians and Plebeians alike was to secure a compromise ; the former wished to bring the multitude back to Rome and to concede as little as possible ; the latter were anxious to return if they could assure themselves against the continuance of oppression. In fact the breach between the orders was merely patched up by a temporary accommodation ; the far-reaching political consequences that ensued were accidental.

In the first place regulations were probably made affecting the 'nexi,' the involved freeholders. The nature of these is quite uncertain ; it is possible that a promise was made by the Patricians to mitigate the rigour of their pro-
Its results
—New
Regulations
for debtors.

ceedings; but in later years the question came up again. It is quite certain that the 'Nexum' and its consequences were not abolished and the law of debt remained exactly the same as before.¹

Tribunes
of the
Plebeians.

For the protection of the Plebeians against injustice it was agreed that two officials should be appointed every year from among the Plebeians themselves, possessing the right of interfering for their protection against Patrician magistrates whenever any citizen felt himself aggrieved and personally called on the Tribune for his assistance. To these officials was given the name 'Tribuni Plebis,' and the peculiarity of the measure by which the Tribunate was introduced, lay in the fact that it was an oath rather than a law; the whole community, Patricians and Plebeians alike, in the presence of the priests took an oath that they would regard the Tribunes as 'Sacrosancti' (inviolable), and anyone resisting them in the exercise of their functions, and laying violent hands on them should be accursed. This was the celebrated 'Lex Sacrata,' and the hill on which the Plebeians had taken up their position was henceforth known as the 'Mons Sacer.'

The name
'Tribuni.'

Everything connected with the early history of the Tribunes is wrapt in obscurity. Even the origin of the name is uncertain, though there is much probability in the view that it was taken from the Military Tribunate to which the Plebeians had been eligible since their recognition as citizens. When the Plebeians in the army marched in a body to the Sacred Mount, what was more likely than that the Plebeian Military Tribunes should take the lead, or even if there were none, that the name Tribunes should be given to those whom the multitude set up?² The very choice of the name 'Tribuni' seems to point to the close connexion of the army with this secession.

Method of
appoint-
ment.

The question as to the method of their appointment is much more difficult to determine. During the secession there is no doubt that the Plebeians elected their own leaders

¹ See the later troubles after the Gallic invasion. Seizure of 'Nexi' was only abolished by the Lex Poetilia, 326 B.C. See p. 121.

² Varro. v. 81, 'Tribuni plebei quod ex tribunis militum primum tribuni plebei facti qui plebem defenderent in secessione Crustumina.'

to represent them in conferences with the Patrician leaders. The procedure at this time is a matter of no moment, for it was a period of confusion when all ordinary legal formalities were in abeyance. But when the community had agreed to recognise the Tribunes as the inviolable representative of the Plebeians, and the Tribunate as an appanage of the commons which no Patrician could hold, there no doubt came into existence a recognised method of electing them.

There were at this time two assemblies of the citizens, the *Comitia Centuriata* and the *Comitia Curiata*, both of these being (as indeed the word '*Comitia*' always implies) assemblies of the *whole* citizen body. Now the *Comitia Centuriata* had not yet lost its original military nature; it was still closely identified with the army, and was not likely to be entrusted with the choice of such officers as the Tribunes. Moreover the Tribunate was founded on a certain analogy with the Consulate, and intended to stand in direct opposition to the supreme magistracy; it was improbable therefore that the election of both should have been left to the same assembly. And there was the additional consideration that the superiority given to wealth in the centuries, would have rendered futile the efforts of the Plebeians to carry the candidates they wished.

The view that they were elected by the *Comitia Curiata* has met with much support.¹ Livy tells us nothing of the method of their election directly, but when dealing with the Publilian Law of 471 B.C.,² he says that "*Volero* proposed a law in the assembly that the Plebeian Magistrates should be elected at the *Comitia Tributa* (the assembly of the tribes); this was an important innovation in a humble guise, for it took away from the Patricians the power of carrying the election of those they wished to appoint by means of the votes of their clients." He proceeds to say that "then

¹ So Lange, and Mommsen in his '*History of Rome*.'

² Liv. ii. 56, '*Volero rogationem tulit ad populum, ut plebei magistratus tributis comitiis fierent. Haud parua res sub titulo prima specie minime atroci ferebatur, sed quae patriciis omnem potestatem per clientium suffragia creandi quos uellent tribunos auferret. ib. ib. 58, Tum primum Tributis Comitiis creati tribuni sunt.*'

for the first time the Tribunes were elected at the 'Tribal assembly.' Dionysius is more explicit, and says definitely that the Plebeians were in 494 B.C. enrolled in the Curies, and the first Tribunes were elected by the Curies. This statement is supported by Cicero,¹ who definitely says the Tribunes were elected at the *Comitia Curiata*. Unfortunately these statements are of no great value, for Cicero is an indifferent authority on points connected with the early constitution, and the text of this passage is very uncertain; and Dionysius is notoriously unreliable. The election of these new Plebeian officials by this assembly seems improbable on general grounds. The *Comitia Curiata* was already becoming politically obsolete; why should the activity of an old institution have been revived to do entirely new work? Again the direct opposition of the Tribunes to the Consuls was so insistently brought out,² and was so universally noted, that in all probability the election of the Tribunes would not be intrusted to the old assembly, which was closely connected with the time of complete Patrician ascendancy. Finally the Tribunate was distinctly a Plebeian institution; it was a post held by Plebeians for Plebeians, and it is hardly to be supposed that the Plebeians would have consented to have these officials appointed by the Curies, in which not only they and the Patricians, but also the landless clients and those who in the Centuriate assembly were included in the *accensi* had votes on equal terms. In these early days the clients were a factor of great importance; they were very numerous, for the power of the great clan-chieftains was very extensive in the early Republic, and was almost analogous to the position of the Highland chiefs; moreover the bonds of clientage were strong, and the clients of the great families were very unlikely to go against the wishes of the Patricians.

Anything approaching to certainty on this point is clearly not attainable; but the contrast carefully preserved between the Tribunes as leaders of the Plebeians and the Consuls

¹ Cic. *pro Corn. frag.* 'Itaque auspiciato postero anno tribuni plebis comitiis curiatis creati sunt.' So too Asconius.

² Liv. ii. 33. And Cicero says the Tribunate was created '*Aduersus consulare imperium.*'

who belonged to the Patricians, and were regarded as purely Patrician magistrates though they were really chiefs of the whole State, helps us to a plausible conclusion. The Plebeians had appointed their first leaders themselves on the Sacred Mount; they had tasted the privilege of nominating their own chiefs, and would not be willing to admit the Patricians, whom they considered as their sworn foes, to a share in their future proceedings. They were already members of the Curies, they were familiar with the Curiate organisation; this old method then would suit them admirably if only the Patrician element were eliminated. No sooner was their right to have Plebeian leaders of their own recognised, than they began to assemble, and they adopted the Curiate organisation as being ready to hand. These assemblies were not identical with the Comitia Curiata; they were not 'Comitia' at all, for this word implies always a gathering of the whole citizen body; they were Concilia Plebis, gatherings of the Plebs, not recognised by law but tolerated in practice. In these gatherings, the analogy with the Consular elections was carefully kept up, and a Tribune presided at the election of his successors just as the Consul presided at the elections in the Comitia Centuriata. The system adopted for these 'Concilia' was taken from the Comitia Curiata, that is to say, they were just the Comitia Curiata without the Patricians. These meetings were quite informal, there was no careful organisation, and the landless clients were naturally admitted, for they also belonged to the Curies, and were a section of the Plebs though closely connected with the great families. All the members of this assembly knew the 'Curiae' in which they were enrolled, and in the new assembly they voted accordingly. This explains the statements of the ancient authorities who represent the election as taking place in the Comitia Curiata. It fits in too with Livy's account of the Publilian Law; it was found in course of time that the clients, many of whom had no land, were voting in this informal assembly and upholding the interests of the Patricians, and therefore the election was transferred to a new assembly based on the Tribes in which only landholders were enrolled.

The new
Tribes.

There is another institution which presents great difficulty and which originated about this time, and that is the 'Tribe' organisation. The local Tribe¹ was instituted by Servius Tullius, who divided the city and the adjacent land into four districts, or 'Tribus,' in which all the freeholders who were liable to service in the army were enrolled, the object being to simplify the levy by raising it in four instalments, one from each tribe, and to facilitate the collection of the *Tributum*. These were afterwards known as the four City Tribes ('*Tribus Urbanae*') in contradistinction to the Rustic Tribes ('*Tribus Rusticae*') which comprised in later times those who dwelt outside the city. It was customary in later years to create new tribes out of the territory of conquered people till the final number reached thirty-five. Livy tells us that in the year 495 B.C. (the year before the great secession) "twenty-one tribes were created." This number is wrong, for by subtracting the subsequently recorded additions from the final number thirty-five we find that at this time there were twenty-one in all, including the four old Tribes; that is to say, seventeen were formed in this year. This statement is intrinsically improbable, for Rome can hardly have gained a sufficient increase of territory at a time when she could barely stand against her many enemies to necessitate the creation of seventeen new tribes. We may perhaps conclude that the number of tribes altogether about the time of the secession was twenty-one. We may assume that in consequence of the increase and reorganisation of the army by Servius Tullius, Rome made large strides and extended her territory very considerably; the more Rome pushed forward her boundaries the more inconvenient it became to have the farmers in outlying districts attached to the four City Tribes. At some time then between the time of Servius Tullius and 495 B.C., the local organisation begun by him was extended, and seventeen new tribes formed. The object of this step was merely to make the tribal lists more manageable and to simplify the collection of the war tax (*Tributum*) and the raising of the levy within each tribe. It is noticeable that of these seventeen *Tribus Rusticae* sixteen bear the names of famous Patrician

¹ See above, p. 26.

clans who presumably were the chief land-owners in the respective districts—a fact which clearly indicates the wide influence of the clan system. The odd tribe had a local name and was called *Crustumina*; and it has been not unnaturally assumed that this tribe was not formed till the tribes were adopted as the basis of a new assembly (the '*Comitia Tributa*' in which the citizens voted by tribes) in order to make an odd number and give a majority when a vote was taken.

Amid the hopeless confusion which surrounds the events of this period the creation of the *Tribunate* stands out as a great historical fact. It was not an office instituted to remove political inequalities, nor a far-sighted plan for the establishment of a Democracy; it was merely the outcome of a pressing necessity, an institution created to meet the special needs of the times. The position of the *Tribunes* in the early years was very different to the almost unlimited power of the later *Tribunate*; the original business of the *Tribunes* was not to lead the opposition to the *Patrician* government, but to protect individual members of their own order who appealed to them personally for help against arbitrary acts or unjust sentences of the *Patrician* magistrates.

The aim of the *Tribunate* then was originally not strictly political, though from *Livy* and our other authorities we might be led to infer that such was the case, for in almost every instance where the *Tribunes* are mentioned they are exhibited as leading the attack on some political privilege of the aristocracy.¹ There is little doubt that this is a misrepresentation; this side of the *Tribunician* activity was much less prominent, and was in the earliest stage of the development of the *Tribunate* non-existent. It was only later that they took the lead in political movements, when their original functions had become widely extended, and when their obstructive powers were turned to account not by the poor and oppressed *Plebeians* whose interests they were originally intended to protect, but by the richer *Plebeians* who aimed at political equality with the *Patricians*.

¹ Though *Livy* himself clearly defines their original power, as '*latio auxilii adversus consules*,' see also *Dionys. vi. 87*, ἄλλου μὲν οὐδένης κύριοι, τοῖς δὲ ἀδικομένοις ἢ κατισχομένοις τῶν δημότων βοηθήσουσι.

Its original function. The original duty of the Tribunes was merely the 'auxilii latio adversus consules' (the giving of assistance against the Consuls), *i.e.* the power of interfering when personally appealed to against an arbitrary act on the part of the Patrician magistrates. This was technically called the 'Jus Auxilii.' Originally there were two Tribunes, but this number was almost immediately increased to five and a few years later to ten. The intervention of a single Tribune was enough. To ensure proper protection for the Plebs the Tribune was not allowed to sleep for a night outside the city, and day and night his house must be open to enable any citizen to apply for help. But his power ceased outside the limit of one mile from Rome. It was of no avail against the military command (*Imperium*) of the Consul outside the city walls, nor against the Dictator. From this small beginning sprang rapidly the more extended powers of the Tribunes; in the first place the 'Jus auxilii' was useless unless they had power to enforce their opposition to the magistrates and thus they gained the 'Jus coercionis' (the right of using force) and the 'Jus prensionis' (the right of arresting anyone who withstood them). Now from being the protectors of aggrieved individual Plebeians it was a short step to the position of protectors of the interests of the whole Plebeian order, and hence at a very early time the power of interfering to protect an individual from an unjust sentence developed into the power of 'Intercessio' (*veto*) against any official act of administration which they conceived to be against the interests of their order, and finally into a power of unlimited obstruction which could hinder all the machinery of government, and lend its service to any political party in the State with whose interests the individual Tribune happened to be identified.

Its Extension.

Judicial powers.

But before this extensive political power came into existence the Tribunes had gained important judicial functions. As a result of their right of interfering with arbitrary official acts they gained the power of passing sentences on those who were guilty of such acts, and as general protectors of their order they proceeded against anyone who was guilty of offences against the Plebs; they could summon anyone before them,

magistrate or private citizen, they could bring him forward in the market-place ('producere in forum') and force him to answer any question they might put to him; they could seize offenders, place them on their trial and sentence them to a fine or even to death. To assist them in their judicial functions there were created two 'aediles' (keepers of the Temple), whose first duty was probably the keeping of the 'Lex Sacrata,' but who soon gained a jurisdiction parallel to that of the Tribunes in minor cases that could be met by fines, and the 'Decemviri Judices' (later called the 'decemviri stlitibus iudicandis') of whose jurisdiction little is known.

It is clear that the Tribunate was in a way a copy of the Consulate without the Military 'Imperium'; the Tribunes in fact were created as Livy says 'adversus consules,' against the Consuls. And this parallelism led to the institution of an entirely new assembly probably within a few years of the creation of the Tribunate. When the judicial powers of the Tribunes came to the front, the question of dealing with appeals from the Tribunician sentences naturally arose; where were such appeals to be heard? Here again it was the procedure in the case of the Consuls which furnished the pattern for the new arrangement. When an appeal to the people was made from a sentence of the Consul the case was introduced by the Consul to the 'Comitia Centuriata,' over which he himself presided. Now the Tribunes had no 'Imperium'; they could not summon or preside in the 'Comitia Centuriata,' and the system by which the magistrate who had passed the original sentence introduced the case on appeal to the Comitia was not likely to be departed from. On other grounds it would have been impossible to allow these Tribunician appeals to come into the Centuriate assembly; in the first place great advantage lay with the wealthier classes; and, more important still, the Tribunes and Consuls stood face to face as the leaders and representatives of bitterly hostile classes; it was necessary to emancipate the Tribunes entirely from all Consular influence and it would have been fatal to allow the appeals from the former to come before a court dominated by the latter.

The origin
of the
Comitia
Tributa.

Originally
a judicial
assembly.

To meet the needs of the case a new assembly was created which was in its origin *entirely judicial*; this was the 'Comitia Tributa' (the assembly of the whole citizen body voting by tribes). All the members of the twenty-one tribes, *i.e.* all freeholders, were members of this assembly on a footing of perfect equality; Patricians as well as Plebeians were included, for it would have been unfair for the enemies of the Plebeians to be put on their trial before an entirely hostile assembly. The members of each tribe first recorded their votes separately, and the final verdict was given by the majority of the twenty-one tribes, just as in the older assemblies the decision was given by the majority of Curies and Centuries. This assembly having no connection with the army, the Imperium was not needed by the President, and so the parallelism between the Consuls and Tribunes was maintained in their judicial functions. In the event of an appeal from the Tribunician sentence, the Tribune followed exactly the same procedure as the Consul; he brought the case before the citizens assembled in their 'tribes,' who, thus acquired almost from the first a co-ordinate jurisdiction with the assembly of Centuries.

Working
of the
Tribunate.

The general result then of the Secession was an organised opposition of the Plebeians to the governing class, under the leadership of the Tribunes who were created as a direct check on the Patrician Magistrates. They had no positive administrative power; they could only hamper the executive magistrates; their power was negative, that of the Consul was positive; and as the power of the Tribunes extended, every operation of the Consul (except in his military capacity) was liable to veto. To modern minds such a government appears impossible; how was it that a plan so palpably unworkable, so certain to accentuate the existing political bitterness came to be adopted? The answer seems to lie in the fact that the Patricians did not intend the Tribunate to be permanent; it was merely a compromise to meet the existing circumstances; it seemed to leave things much as they were, while introducing a partial system of protection for the poor Plebeians. Again it was not in its origin political, and the Patricians had no conception of the huge development that would soon take

place in the narrow 'Jus Auxilii.' The very purpose for which it was instituted the Tribunate failed to achieve; it may have been useful in individual cases, but it could not secure justice to the Plebeians; for the fault lay in the fundamental injustice of the existing laws, and those the Tribunes were powerless to alter.

The unsatisfactory nature of the compromise soon became evident; the whole arrangement merely brought out more clearly the distinction between rich and poor, Patrician Plebeian, and led to increased discord and continual strife; the Patricians were determined to keep matters as they stood at any cost; the Tribunes, as leaders of the Plebs, were straining every nerve to improve their position and the condition of their order. The concession of the Tribunate might well appear to the Patricians less important than it subsequently proved, for the Plebeians at that time had no organisation; a large number of widely scattered yeomen, with leaders who lived in the city, and with no coherence, did not seem likely to prove a strong opposition. But the Plebeians soon faced the problem of organisation by meeting together in their Concilium (the informal gathering at which they elected their officers) under the presidency of the Tribunes, and passing resolutions on general matters connected with the policy and administration of the State; these resolutions had no legal force, they were called Plebiscita (resolutions of the Plebs), and were valueless except as a strong expression of opinion on the part of a great section of the State.¹ Some coherence was now introduced into the Plebeian body; the mass of the people came into touch with their leaders and began to gain something resembling a political education. The importance of this practice is shown by the passing of the Icilian Law in 492 B.C., which threatened with severe penalties anyone who should interrupt a Tribune while speaking in a Plebeian assembly, or endeavour to dissolve it. It has sometimes been stated that this law was the first law passed as a Plebiscitum; this is quite incorrect. The only legislative assembly was the Comitia Centuriata;

Growth of
Plebeian
organisa-
ti

¹ They had no more practical force than a strong Parliamentary Petition has nowadays.

what the Plebis Concilium really did was to issue a strong representation to the government; if it seemed to the Patricians that the Plebeian resolution was likely to be strongly backed, and that prolonged resistance would be hopeless or dangerous, they passed a measure, based on the Plebiscite, in the Centuriate assembly; in no event did a resolution of the Concilium Plebis become law in virtue of the Plebeian vote. This was the method pursued in the case of the Icilian Law; the Plebeians were determined to legally assure to themselves and their leaders the right of assembling and discussing affairs of moment; the very fact that such a law was necessary shows that the Patricians were endeavouring to hamper as far as possible the opposing class, and particularly to prevent the dangerous development of Plebeian organisation.

Bitterstrife
between
the orders.

The history of the next fifty years is a confused mass of family traditions and unhistorical legends. It was a period of continual intestine struggle which was the natural outcome of the opposition between the Consuls and the Tribunes. Every consideration became subservient to party bitterness, and both Consuls and Tribunes had abundant opportunity for undue severity; the former had behind them the whole Patrician order with their exclusive knowledge of traditional law; the latter had judicial powers so exceedingly undefined that their abuse was a necessary consequence; no one could say exactly what constituted an offence against the Plebs; it was quite enough for the victim to be a leading Patrician. Such were the circumstances out of which arose the legend of Coriolanus (assigned by tradition to 491 B.C.) the desertion of Rome by the Fabian gens (479 B.C.) and the seizure of the Capitol by a band of refugees led by a Sabine Appius Herdonius (460 B.C.). The Patricians found their own weapons turned against them by the Plebeians; and the struggle between the Patricians and the Plebeians, the rich and the poor, was becoming a war of prosecution and punishment waged with reckless severity.

Continu-
ance of
economic
distress.

Meanwhile the city was engaged in continuous war, and the same causes of poverty which had led to the First Secession still continued to operate; manifestly there was little ameliora-

tion in the actual condition of the poorer classes. It is true that the Romans were gradually driving back the Volscians and Aequians, that Latin colonies¹ were founded at Velitrae (494 B.C.) and Norba (492 B.C.), and that large additions were continually being made to the public land. These successes were undoubtedly due to the foresight of Spurius Cassius who renewed the league with the Latins in 493 B.C. and gained the adherence of the Hernicans in 486 B.C. Little though we know of him Spurius Cassius is one of the most striking figures in the early history of the Republic; not only did he place Rome on a firm footing against her enemies, he made an attempt also to help the poorer citizens by an Agrarian Law, the first of a long series of land laws which are important for the student of the political history of Rome. When the administration of the State lands passed to the Patricians² they restricted the enjoyment of it to the 'cives optimo iure,' the citizens with full rights, and thus the extension of the State's territory did nothing to ameliorate the condition of the poor Plebeians. In 486 B.C. Cassius proposed that all the State land (*i.e.* all the conquered land that had not been assigned by allotments in actual ownership) should be surveyed,³ that one half should be leased and the rent paid to the treasury, and that the remaining half should be divided among the needy Plebeians. Tradition tells us that he proposed to give a share also to the Latin allies;⁴ but it is possible that this part of the tradition is taken from the times of the Gracchi. At any rate the Patricians rose against him; they were joined by the rich Plebeians; and according to tradition the charge of endeavouring to make himself king was brought against him and he was put to death. This account rests on very uncertain grounds, for Livy admits the existence of another tradition which represents Cassius as having been tried by the family council and put to death by the exercise of his father's 'Patria Potestas.' The whole story

¹ p. 146.

² pp. 53 and 104.

³ Such is the account preserved. The details are unauthentic and of little importance. The fact remains that this law probably aimed at altering the system of public lands in favour of the Plebs.

⁴ Liv. ii. 41.

bears the stamp of a later age; in the first place the idea of sharing public land with the Latins belongs to the age of the Gracchi, nor is it likely that the prejudice of the citizens against the Latin allies was at this time strong enough to make the Plebs refuse so great a boon merely because it was suggested that the Latins should have a share. The cry of 'a king' was a familiar method of raising a storm of hatred against a reformer in early times, a cry to which the uneducated multitude seems to have been only too ready to listen. The whole story may mean nothing more than that Cassius in his Consulship tried to administer fairly the public land and recognised the claims of the Plebs; but he met his death at the hands of the Patricians judicially, or otherwise, and the excuse of treason was invented afterwards as a justification. How far the Patricians were prepared to go is shown by the murder of the Tribune Genucius in 473 B.C. when he impeached the Patrician ex-consuls for mismanagement.

The Law
of Publius
Volero.

This flagrant crime seems to have roused the Plebeians to a great effort; they resolved to have their Tribunes to themselves. We are told¹ that the Patricians made a point of securing the support of at least one Tribune to veto the proposals of his colleagues. The Plebeians determined now to get the election of their leaders entirely into their own hands. It has been shown above that the elections probably took place in *Concilia Plebis Curiata*, informal assemblies of the Plebeians voting by curies, in which the landless clients of the Patrician families were enrolled, and probably exercised some considerable influence on the choice of the assembly. The proposal was brought by Volero, doubtless before the Plebeian gathering (*Concilium Plebis*), 'ut plebei magistratus Comitibus Tributis fierent.'² This has again been regarded as a 'Plebiscitum' (resolution of the

¹ Liv. ii. 44.

² Liv. ii. 56, says Volero 'tulit ad *populum*,' which could refer only to the *Comitia Centuriata*, for at this time the *Comitia Tributa* had only judicial competence, and 'populus' can only be used of a meeting of the whole citizen body. This account must be wrong because Volero was a Tribune, and only a magistrate 'cum imperio' could bring a proposal before the *Comitia Centuriata*.

Plebs), which was allowed to have the force of law; but the regular procedure in these cases was followed and should be noted, for it is of great importance in understanding the successive laws dealing with the Plebeian assemblies. For a whole year the Patricians resisted and tried in vain to induce one of the Tribunes to veto the action of Volero; the Plebs could do nothing but re-elect Volero Tribune for 471 B.C. Again the Patricians resisted till they found the Plebs were ready to proceed to extreme measures; the Consul at last called the Senate and consulted them and they decided to allow the law to go before the Centuriate assembly. That is to say there were three stages before any resolution of the Plebs in their informal assembly could become law; firstly, the resolution had to be voted in the Plebis Concilium; secondly, if he pleased, the Consul brought it before the Senate and discussed the advisability of introducing a Lex on the lines indicated before the Comitia Centuriata; thirdly, if the Senate gave their approval it was introduced by the Consuls to the Centuriate assembly and became Law with the usual formalities. Of these three stages Livy altogether omits the third in his account; but it is certain that at this time all laws had to be passed by the Centuries.

The object of the law was to free the Tribunician elections from the Patrician influence which was exercised through the votes of the clients. Livy states that as a result the next Tribunes were elected at the Comitia Tributa. Now Livy is notoriously unreliable in his constitutional details, and is peculiarly careless in his use of such words as Comitia and Populus. His statement here is probably not to be received exactly as it stands. The object of the change is clear enough—the Plebs wanted to be entirely free from all outside influence in the choice of their officers, and objected to the landless clients participating. Would their object have been attained by transferring the election to the Comitia Tributa? True this was restricted to landholders, and therefore the landless clients who had found their way into the ill-organised Concilia Plebis Curiata would have been excluded; but inasmuch as the ‘Comitia’ included *all* the citizens possessing land, the Patricians

Election of
Tribunes
by Con-
cilia Plebis
Tributa.

themselves would have gained a vote in the election, which they had not had before. It is inconceivable that at a time when the hostility of the Plebeians to the Patricians was so bitter they should have transferred the elections of their own officials to this assembly, and by so doing have given their bitterest enemies an actual voice in the election, when the object of the change was to avoid the *indirect* influence which the Patricians exercised through their clients. It may be confidently assumed that the Plebeians kept these elections entirely in their own hands; the Tribunes continued to be elected not by Comitia, assemblies of the whole body of citizens, but by Concilia, gatherings of the Plebs alone. What they had to do was to remove the landless clients and this was done by altering the organisation and constitution of the Plebeian Concilia; the original Concilia¹ had been based on the Comitia Curiata; those who were members of the Curies became members of the Concilium, except the Patricians. Henceforth the Concilia were based on the Comitia Tributa, *i.e.* the Curiate organisation of the Concilia was abolished, and that of the Comitia Tributa introduced; hence only those who were members of the twenty-one Tribes and who voted in the Tribe assembly, (*i.e.* the free-holders alone), became members of the new Concilia Plebis; the Patricians were of course excluded. The voting unit was now the Tribe, not the Curia; the assembly was restricted to Plebeians as it had been before; but the clients who had no land were excluded by the introduction of the freehold qualification. From 471 B.C. the Tribunes were elected by the 'Concilia Plebis Tributa' or as they were generally called the 'Concilia Plebis,' and the Concilia Plebis Curiata disappeared.

The
four as-
semblies.

There were then, besides the Comitia Curiata and the Comitia Centuriata, two assemblies in Rome with the Tribe organisation, one the Comitia Tributa, which included all the freeholders and had judicial functions, the other the Concilium Plebis, which was composed entirely of Plebeians and elected the Tribunes. Many writers have denied the existence of these two Tribe assemblies, and there

¹ p. 60 *sqq.*

is no definite recognition of them in the ancient authorities. Livy when referring to a Tribe assembly always uses the term 'Comitia Tributa,' but often speaks of it in terms which imply that it was a purely Plebeian assembly, which is against the accepted use of the word Comitia. The reason why no definite mention of the distinction occurs is that after the year 287 B.C., when the Plebeian assembly received the unrestricted right of legislating for the whole people by the Hortensian Law, all distinction between the two assemblies for practical purposes disappeared, and the formal procedure which still preserved traces of the original difference never seems to have struck the superficial Roman writers. Apart from the arguments used above against the probability of the election of the Tribunes by a mixed assembly of Patricians and Plebeians the following evidence seems fairly conclusive:—

Firstly: In the later years of the Republic when the distinctions between Patricians and Plebeians were practically obsolete, and the assembly of Roman citizens voting by Tribes was the leading legislative body in Rome, we find certain peculiarities that seem to point to some original distinction. In fact, though the actual voting body was the same, there were formally two kinds of Tribe Assemblies:

(a) Those presided over by magistrates who possessed the 'Jus cum populo in Comitibus Tributis agendi' (the right of summoning and making proposals to the whole people assembled in the Comitia Tributa), viz.: the Consuls, extraordinary magistrates who took the place of the Consuls (such as dictator, or in early times the Military Tribune with Consular Power), praetors and curule aediles. It was in these assemblies that the elections of Quaestors and Aediles took place, and some of the legislation.

(b) Those presided over by a magistrate who possessed the 'Jus cum Plebe agendi' (the right of summoning the Plebs), such as the Tribunes and Plebeian aediles. Here the use of the word 'Plebs' stands in direct opposition to the word 'Populus' in the other case. In this assembly the Tribunes were elected and passed their laws.

A further important difference lies in the fact that the

former must be preceded by the ceremonies ('auspicia') which always had to precede a meeting of the whole community, *i.e.* they were held 'auspicato'; in the latter no such 'auspicia' were needed, for the assembly in theory represented only the Plebs, though in fact it embraced the whole people.¹

Secondly: The constant use of the formal word 'Plebs' in reference to some of the Tribe Assemblies in official formulæ is surely not merely accidental; such are the words 'Plebiscita,' 'cum Plebe agere,' 'Plebem rogare.' That the distinction existed in theory even in later times seems to be shown by the phrase which Livy² puts into the mouth of Scipio when he prays that his expedition may be fortunate 'populo plebique Romanæ,' and the same phrase occurs in Cicero.³ It may be that these words will not bear this interpretation, and that they are a survival from a still older time when the Plebs were almost an alien community, and outside the citizen body altogether. But in view of the frequent application of the term *Plebiscitum* to votes passed in the so-called 'Comitia Tributa,' the definition of the term given by Festus seems to carry weight: 'Scita plebei appellantur ea quae Plebs *suo suffragio sine Patribus* iussit, Plebeio magistratu rogante.' ('Plebiscita' is a name given to resolutions passed by the Plebs voting without the Patricians, and under the presidency of a Plebeian magistrate.)

When the difference between Patrician and Plebeian ceased to have any political importance, Patricians may have voted in the *Concilia Plebis* as well as in the *Comitia Tributa*, for their numbers by that time were too insignificant to make their presence objectionable to the Plebs; and, moreover, when the *Concilia Plebis* received the power of legislating for the whole community, the Patricians as citizens might naturally claim a vote. So that after 287 B.C. the two assemblies virtually coalesced, and there was no difference in the composition of the *Plebis Concilia* and *Comitia Tributa*; but even after this had taken place the trace of the old distinction continued to exist in the formalities of the Tribe assembly.]

The course of events during the thirty years following the

¹ Dionysius says expressly the Tribunes were elected *δίχα ολόων τε καὶ ἀλλης ὁπτείας*.

² Liv. xxix. 27, 2.

³ Cic. pro. Mur. i.

institution of the Tribune had not been such as to inspire confidence in the existing system. It did not secure for the Plebeians generally the fair administration they desired; it was useful for purposes of retaliation, and occasionally, no doubt, saved an individual from suffering by the abuse of the Consul's power; but the system of the co-ordinate colleges of Consuls and Tribunes was fatal to the peace of the State. The Plebeians had been gradually gaining ground in the political field; they had secured the *de facto* recognition of their assembly, and the right of electing their own leaders. It was clear that so long as the law remained purely oral and traditional, and was a possession of the Patricians, the Plebs would continue to be oppressed. Accordingly in 462 B.C. the Tribune C. Terentilius Harsa first mooted the idea of appointing a commission of five men to draw up a code of laws 'dealing with the Consular Imperium.'¹ The object was that the Consul might no longer govern entirely by his own caprice and the vague traditions of oral law, but should be bound by the enactments of a definite published code in his dealings with the citizens. Such a scheme as this, of course, would deprive the Patricians of one of their most dearly cherished rights, the exclusive possession of the law, and a furious struggle began on the usual lines; the familiar features of Tribunician prosecution, fights in the forum, and vetoed levies, are all found in Livy's account. Gradually the Plebeians gained the better of their opponents; in 457 B.C. they elected ten Tribunes instead of five; this increased the safeguards of the Plebeians because of the necessity of personal appeal to the Tribune; but it was a measure the Patricians were not likely to oppose very seriously, for it increased their chances of securing the application of the Veto. In 454 B.C. was passed the Lex Aternia Tarpeia (introduced by Aternius and Tarpeius) and soon after a Lex Menenia Sextia (introduced by Menenius and Sextius). The actual aim of these laws is uncertain, and the accounts given of them are so mysterious that some have denied their existence. According to Dionysius² the magistrates all received the right of impos-

Demand
for a
written
code.

¹ Liv. iii. 9. 'Ut quinque uiri creentur legibus de imperio consulari scribendis.'

² x. 50.

ing fines, but a limit was fixed, *viz.*: two sheep or thirty oxen. It would seem that the Tribunes had used the right of imposing fines before this, and it is hard to see how this limit applied. From the general course of events in this period we may conjecture that the object of the law was to impose a definite check on the powers of the Consuls in the interest of the Plebeians, though we cannot say exactly how it was effected by this law. To ensure its observance, appeal to the people was allowed in cases where the magistrate overstepped the limit. But the greatest practical gain of the Plebeians was secured by the Icilian law in 456 B.C. Like the previous laws in favour of the Plebeians this was no doubt passed in the Centuriate assembly on the basis of a demand promulgated in the form of a Plebiscitum in the Concilium Plebis. By it the Aventine Hill which had hitherto been uninhabited was divided in allotments among the poorer classes, and now became the peculiarly Plebeian quarter of Rome.

These temporary concessions did not deter the Plebeians from prosecuting their main object—legal equality with the Patricians, to be attained by means of a published code of laws. The utter confusion of government, the impossibility of administering the affairs of the city, and the constant struggles between the Consuls and Tribunes which paralysed every department of the State forced both parties to agree to a compromise. The necessity of a code was admitted, and three commissioners were sent to Greece to bring back a copy of the Laws of Solon and inspect all the other Greek codes. On their return there were elected in 451 B.C. ‘Decemviri Consulari imperio legibus scribendis’ (ten commissioners with full consular power for drawing up laws). Beside this duty they were entrusted with the entire government of the State; all other magistracies were suspended; the Patricians gave up their Consuls and the Plebeians their Tribunes, and for one year the city had peace. This temporary suspension of all the State and Plebeian magistrates shows perhaps the real reason of the appointment of this commission, combining the functions of a legislative board with those of the executive magistrates. Whatever had been the nature of the original proposal of Terentilius, the Patricians

The Decemvirate.
451 B.C.

had fought against it as an invasion of one of their greatest privileges;¹ the end of the struggle was a compromise, and the Patricians never made a compromise unless they saw their way to gain something. Not only they but all thoughtful men must have seen that orderly government was impossible as things were; that the position of the Tribunes in direct hostility to the Consuls with unlimited powers of interference was fatal to all order and government; so they yielded to the Plebeian demand for a published code of laws in the hope of *substituting this for the Tribunate*. The Tribunes had been established primarily to prevent injustice in the execution of the law by Patrician magistrates; when such injustice was rendered impossible by the publication of the law the need for the Tribunes would disappear. By this compromise the Decemvirs were appointed sole and supreme magistrates of the State; even the *Jus provocationis* was suspended; there was no right of appeal from their sentences; they were only bound by oath to respect the rights of the commons. The aim of the Patricians no doubt was to restore the Consulate at the first favourable opportunity and leave the Tribunate if possible in abeyance. It seems unlikely that the Plebeians would ever have consented to this, but the Patricians had no choice; the demand for a written code was too strong to be resisted, and the party that is forced to a compromise is always willing to leave something to the chances of the future.

The Decemvirs were elected only for the year 451 B.C., and the outcome of their efforts was the publication of Ten Tables of Laws which were duly passed in the *Comitia Centuriata*. The work not being completed another board was elected for the following year; the only member of the former college re-appointed was Appius Claudius, who,

The
second De-
cemvirate.

¹ Liv. iii. 9 and cf. iii. 31. His account tells us that (1) the original intention of the Tribune was that the Plebeians should prepare the code; (2) the demand was modified to a proposal for the preparation of a code in common (*communiter legum latores et ex plebe et ex patribus sinerent creari*); (3) the Patricians refused the compromise and claimed that Patricians alone should prepare the code (*'daturum leges neminem nisi ex patribus aiebant'*).

according to tradition, was selected by his colleagues to preside at the election in order that he might not be re-elected; for it was contrary to all precedent for the presiding officer to declare himself elected, and the open canvassing of Appius before the election had given rise to the suspicion that he was anxious to continue in office. The device of his colleagues failed, and Appius Claudius returned himself elected with nine others. Dionysius tells us that three of these were Plebeians, and two of the other names were certainly Plebeian in later times, so that of this second board one half were representatives of the commons. According to Livy Appius now threw off the mask and a reign of terror began; each of the Decemvirs was attended by ten lictors carrying the axes to signify that there was no 'provocatio' against their sentences; moreover appeal from one Decemvir to another was no longer allowed; cruelty and oppression were rampant; the conciliatory attitude of the former board towards the Plebs was reversed, and they began to long for the restoration of the Tribunate. The two final Tables were published, and nothing remained for the Decemvirs to do but to pass them in the assembly, and then lay down their office and allow the ordinary magistrates to be appointed again. They however continued to rule until at last a shameful act of tyranny aroused the city, and the murder of Siccus Dentatus exasperated the army; the opponents of the Decemvirs joined forces, and a repetition of the proceedings of 495 B.C. took place; the Plebs seceded to the Aventine and formulated their demands.

The whole of this account is unsatisfactory and unhistorical. The first point to be discussed is the composition of the Decemvirate. With regard to the first board there is no doubt that they were actually all Patricians; the only question is whether the Plebeians were eligible. There is strong evidence that one half of the second board were Plebeians, and this view of the second Decemvirate has been accepted by most modern commentators. It has been mentioned above that Livy describes the original demand of the Plebeians as being directed to a Plebeian code ('Plebeia leges'), though in his later reference to the

The composition of the Decemvirate.

Decemvirs he always writes of them as an exclusively Patrician body. This is worthless for evidence. We know that the demand for a written code was directed entirely against the power of the Patrician magistrates, and this fact in itself would lead us to expect the Plebeians to be eligible for a place on the commission. If the presence of five Plebeians in the second Decemvirate be taken as proved¹ there are two possible explanations of the course of events.

Mommsen holds that the Decemvirate was open to the Plebeians from the first; their full title was 'Decemviri Consulari potestate legibus scribundis,' which forms a close analogy with the 'Tribuni Militum Consulari Potestate' instituted in 445 B.C., for which we know the Plebeians were always eligible; the resemblance consists in the substitution of a larger for the smaller college and the granting of consular powers while the rank and title of Consul were withheld. Again the Plebeians did not at once gain a place among the Military Tribunes though entitled to it. The change in the tactics of Appius Claudius as described by Livy is a pure fiction; for the leader of the Decemvirate—an essentially anti-Patrician body—cannot have been the chief of the aristocracy. He was the same throughout; a strong man who used the support of the people to raise himself to power, and then became in the full sense of the word a tyrant to Patricians as well as Plebeians.

The weak point in this view is the fact that the Plebeians gained admission to the Decemvirate so soon. It is quite possible that they might have failed to secure representation on the first commission though legally entitled to it; but the analogy with the Military Tribunes is of little use, for

¹ I am by no means convinced that this fact is established. Mommsen says, 'If there is anything good and reliable in what has been handed down to us, the list of magistrates is so; and we know the Patrician gentes sufficiently to be quite certain that at least the three mentioned by Dionysius and probably two others were Plebeian.' It does not follow that because we know a name to be Plebeian in later years, it was Plebeian in 450; e.g.—Oppius was a Plebeian name in later years, but from the old name, 'Mons Oppius,' we may conclude beyond a doubt that it was a Patrician name in early times.

it tells against rather than for Mommsen's view. The Plebeians were forty-five years in gaining a place among the Military Tribunes, and yet they gained a place on the Decemvirate in its second year. Nor does the explanation seem credible. The election took place in the *Comitia Centuriata* where the wealthy classes had a great advantage. If the Patricians were able to carry ten of their own candidates in the first year, they would surely not have lost half the places next year. The sudden breakdown of the Patrician organisation which is indicated by the appearance of five Plebeians in the second Decemvirate is inexplicable.

The difference between the first and second Decemvirate.

The alternative explanation on the whole seems more probable.¹ The first Decemvirs were Patricians entrusted with the technical preparation of a code. When the Patricians yielded in their opposition to the Plebeian demands so far as to admit the need of a code, and the appointment of Decemviri, they still kept the office in their own hands. They had before their eyes the results of the last bitter struggle, in which the Patricians had been driven to a disadvantageous compromise. On this occasion the Patrician Decemviri walked warily, and the government of the city proceeded smoothly for a year; it was the lull in the storm; both orders were waiting to see the result of their experiment. The ten Tables were published, and the question of the future method of government came to the front. In these circumstances Appius Claudius took the lead, and the second Decemvirate was entirely the outcome of his policy. There were two Patrician parties; one comprised the Valerii and the majority of the Patricians who wished to return to the old order of things and distrusted the Decemvirs; these were the strict conservatives; the other party was that of Appius Claudius himself whose professed object was to continue the Decemvirate and to put an end to the Tribunate. Whether the Consulship was to be ultimately restored cannot be decided. At any rate the fundamental point in the policy of Appius' supporters was the destruction of the Tribunate. A pretext for continuing the Decemviral form of government was

¹ This view is held by Niebuhr, Schwegler and Herzog.

found in the excuse that the code had to be completed by two more Tables. But Appius himself had plans of his own; he was really an aristocratic demagogue, determined under cover of the Decemvirate to make himself virtually tyrant of Rome. The traditions represent Appius as using all the popular arts to secure his own return a second time; in this he was quite successful, and further he contrived to bring about the election of nine others all of whom were nonentities except the Patrician Fabius Vibulanus. The admission of the Plebeians was part of Appius' plan. It is noteworthy that not one of them is ever mentioned as having afterwards held the Tribunate. They were obscure people who were probably personal friends of Appius and were willing to be led by him. Now, if the Tribunate was to be abolished, even if it were done gradually, it was advisable that the Plebs should be admitted in some way to a share in the Government, provided that they gained no serious influence, and this was secured by the personal ascendancy of Appius Claudius. The Plebeians then were allowed to elect representatives for this second Decemvirate; but Appius by no means intended to admit Plebeians to the level of the Patriciate, and one of the most important statutes placed in the code by the new commission was the stern prohibition of inter-marriage between the two orders. The opposition to the policy of Appius consisted of two sections who, in spite of their widely divergent interests, combined for the expulsion of the Decemvirs. The majority of the Patriciate led by the great families of the Valerii and Horatii with true conservative instinct saw no good in this innovation; the personal ascendancy of Appius which increased as time went on was against all the traditions of an aristocracy of equal nobles; and some of the laws included in the last two Tables must have increased their uneasiness. By their side stood the Plebeians; the longing for the restoration of the Tribunate was natural, for they had become accustomed for nearly fifty years to regard the Tribunate as the great safeguard against their Patrician enemies, and the Lex Sacrata as the charter of their liberties. With this strong combina-

Fall o.
the De-
cemvirs

tion against him Appius Claudius sealed his own doom by openly acting the part of an irresponsible tyrant; there was no power in the State to check the Decemvirs; they were all of one party and completely under the ascendancy of their leader. Even the features of the Virginia legend contain nothing improbable; they only show us the tyrant breaking his own laws and supported by the suborned evidence of his freedmen and dependants. This view of course rests largely on conjecture, but it gives an explanation of the absence of Plebeians in the first commission and their inclusion in the second.

The
Twelve
Tables.

The Twelve Tables are called by Livy the source of all public and private law¹—quite a mistaken view of their contents. There was little ‘public law’ at all in them. They left untouched the rights of the different classes of the State; they dealt almost exclusively with private law, and were to a great extent a mere codification of existing laws. For example the ‘Nexum’² which had been the cause of so much oppression and trouble was not abolished, but apparently magisterial intervention was insisted on; the creditor could no longer take the person of his debtor without proving his debt in court. Moreover interest was limited, the maximum rate being fixed at ten per cent. But there are two features of the two later Tables which are specially noteworthy; the prohibition of ‘Conubium’ between Patricians and Plebeians has already been alluded to, and it is remarkable that this question should have been entirely ignored by the first commission which was altogether Patrician. An explanation is possible; five years later we find the Plebeians demanding ‘Jus Conubii’ with Patricians;³ doubtless the project was already in the air, and it was thought inadvisable to hasten a coming conflict by emphasizing the inferiority of the Plebs in these laws. Moreover when the Plebeian demands were formulated the right of marriage between the two orders was granted, probably owing to the efforts of the moderate aristocrats, who hoped by yielding this to preserve their more important

¹ Liv. ii. ‘Fons omnis publici priuatique iuris.’

² p. 55.

political advantages, and this moderate party was doubtless more or less identical with the Valerian party in 450 B.C. It is possible then that the first Decemvirate, in which Appius had less influence, already meditated the possibility of such a concession. When Appius became supreme he boldly ignored the claims of the Plebeians and the wishes of the Moderates and inserted the prohibition of *Conubium*. The feature in the last Two Tables which tells most conclusively against the idea that the second Decemvirate was purely Patrician and acted solely in the interests of the Patricians was the regulation about the Calendar. What the actual purport of the law was cannot be ascertained; but it seems to have been, if not a publication of the Calendar, at any rate a measure which restricted the unlimited power of the magistrates in arranging the Calendar. That is to say it was a step in the direction of the legislation of Appius Claudius the Censor in 312 B.C., which was essentially anti-Patrician in its character.

The remains of this famous code are exceedingly fragmentary and little can be gathered of the great body of law it comprised. One great innovation is traced to this source—the introduction of a coinage system in place of the primitive system of barter.¹ If this conclusion is accepted, the legal recognition of coinage must have done a great deal to help the advance of the State, to increase its intercourse with its neighbours, and encourage trade. The right of ‘*provocatio*’ against capital sentences and heavy fines was asserted. The politically important sections were the following—(1) assertion of the right of ‘*provocatio*’; ² (2) the regulation by which juris-

¹ The evidence for this is hardly satisfactory. The *Lex Menenia Sextia* a few years before 450 assessed penalties in Cattle. The *Lex Papiria* of 430 expressed them in Asses, and Festus says that copper coinage was introduced in this interval. From this Mommsen draws the conclusion that the change was due to the Decemvirate. Even if a new system was substituted for the old, it by no means follows that a proper coinage was introduced. Prof. Percy Gardner (*v.* article on ‘*As*,’ *Dict. of Antiquities*), holds that what was introduced was the *Aes Grave* which passed current by *weight*, and that a proper coinage did not come in till 100 years later.

² *Cic. de Rep. ii. 31.* ‘*Ab omni iudicio poenaeque provocari licere indicant xii. tabulae.*’

been obscured by constant confusion with the Comitia Tributa, the actual difference being that the former was purely *Plebeian* while the latter included the *whole body of freeholders*; and that the confusion arose partly because both assemblies had the same organisation and voted by Tribes, partly because the distinction had disappeared for all practical purposes in later times. The origin of both assemblies has already been discussed, the Plebis Concilium being primarily a deliberative and elective assembly of the Plebs, the Comitia Tributa being a judicial assembly of the whole people to judge cases arising out of the jurisdiction of the Tribunes. Many explanations of these laws have been given; some have regarded them as repetitions confirming a right that had in practice not been observed; others again have thought that the first two laws referred to the Comitia Tributa and only the Hortensian Law to the Concilium Plebis; others again have treated the Publilian Law as a fiction. The objections to referring the laws to the Comitia Tributa are these; in the first place the Comitia Tributa was originally a judicial body, and was no doubt restricted for a long time to judicial functions; moreover if the principle of allowing laws to be submitted to it was once accepted there was no reason for special legislation to make them binding on the whole people, seeing that the assembly comprised the 'populus.' In later years, after 287 B.C., we find the Tribe assembly appearing as the chief legislative assembly in Rome, but at that time the distinction between Comitia Tributa and Concilium Plebis had disappeared, and the extensive legislative competence of the Tribe assembly in the later Republic was derived from the old Concilium Plebis, and not from the Comitia Tributa. Now the general principle in the later years of the Republic was that only consular laws (that is laws introduced by Consuls) were submitted to the Comitia Centuriata, while Praetorian Laws (laws introduced by the Praetors) were passed in the Tribe assembly. The first mention of a Praetorian Law occurs in Livy's account of the year 332 B.C.¹; this law was the Lex Papiria by which the Roman citizenship was given to the people of Acerrae. It seems possible then that

¹ Liv. viii. 17.

the legislative competence of the *Comitia Tributa* only came into existence after the institution of the *Praetorship*; all laws proposed by these magistrates came before the *Comitia Tributa*, for the *Consuls* and they alone continued to be closely identified with the *Comitia Centuriata*.

But the greatest objection to regarding these laws as affecting the *Comitia Tributa* is the constant use of the words *Plebs* and *Plebiscitum*, and the contrast brought out in the traditional account of them between the *Plebs* and *Populus*, e.g. "*Ut quod tributum Plebs iussisset populum teneret,*" "*Ut plebiscita omnes Quirites tenerent.*" The most striking passage is found in *Gaius*¹; he first carefully defines and distinguishes between "*Lex*" and "*Plebiscitum*" (*Lex est quod populus iubet atque constituit. Plebiscitum est quod plebs iubet atque constituit*). He then carefully distinguishes between *Plebs* and *Populus*, and lays stress on the inclusion of *Patricians* in the latter term. He proceeds to say that "afterwards the *Hortensian Law* was passed by which *Plebiscita* were made binding on the whole people; and so by this means *Plebiscita* were placed on the same footing as laws."² It is clear then that the *Jurists* regarded the *Hortensian Law* as the origin of the legislative power of the *Concilium Plebis*, and the application of exactly the same terms to the earlier laws seems to show that *Livy* has antedated the rise of this power, but that the traditions on which his account was based referred in some way to the *Plebs Concilium* and not to the *Comitia* of the *Populus*.

The real solution is to be found probably in the ordinary methods by which a *Plebiscitum* passed into a law.³ The *Comitia Tributa* being an assembly of the '*Populus*' was from the first treated like the *Comitia Centuriata* when once its legislative competence was recognised; that is to say if a *lex* was carried in the *Comitia Tributa* on the motion of a *Praetor* it became binding on the people as soon as it had received the sanction of the *Patrician members* of the *Senate*. The procedure in the case of *Plebiscita*.

¹ *Gaius*, i. 3.

² '*Postea lex Hortensia lata est, qua cautum est ut Plebiscita uniuersum populum tenerent; itaque eo modo legibus exaequata sunt.*'

p. 71.

(‘*Patrum Auctoritas*’), at any rate before 339 B.C.¹ The *Concilium Plebis* as representing only the Plebs, could not originally pass resolutions binding on the whole State; the *Plebiscita* were merely strong expressions of the opinion of a numerically important section of the community, which the Patrician government might legally ignore, but which they often found it expedient to pay attention to. In the latter circumstance the matter was taken up by the Consul who brought the matter for discussion before the Senate; if the Senate refused to admit the Plebeian demand the whole affair was shelved; if they approved the terms of the *Plebiscita* the Consul was empowered to frame a law in suitable terms and bring it before the *Comitia Centuriata*; but he could still ignore the advice of the Senate if he chose. If both Consul and Senate agreed in the matter the law was brought before the Centuries; if it passed it had still to receive the ‘*Patrum Auctoritas*,’ after which it became a *Lex*. The following then were the stages by which a resolution of the *Plebis Concilium* became a *Lex*:—

- (1) Resolution passed by the Plebeians.
- (2) The Consul must be induced to take it up and bring it before the Senate. He could if he wished refuse to do this.
- (3) The Senate instructs the Consul to proceed with it.
- (4) If the Consul agrees to do so he brings it before the *Comitia Centuriata*.
- (5) Then like all laws of the *Comitia Centuriata* it is submitted to the *Patrum Auctoritas*.

It is clear what difficulties lay in the way of legislation on the lines demanded by the Plebeians in their resolutions, an example of which is afforded by the history of the *Publilian Law* of 471 B.C.² The object of these successive laws was to simplify their procedure in favour of the Plebs. This was done in three stages.

- (1) The *Valerio-Horatian Laws* compelled the Consul to bring the *Plebiscita* before the Senate.

¹ p. 123.

² p. 70.

- (2) The Publilian Law of Philo compelled the Consul, with or without the sanction of the Senate, to submit the Plebiscita to the Comitia Centuriata to be made Law. Thus this law abolished the intermediate sanction of the Senate and gave initiative in legislation to the Concilium Plebis.
- (3) The Hortensian Law abolished the necessity of taking the Plebiscita before the Comitia Centuriata, and the Plebis Concilium became a recognised source of State legislation.¹

It is clear then that this Valerio-Horatian Law was a great Result gain for the Plebs; in early times a Plebiscite, such as the demand for the election of Tribunes in the Concilium Plebis, was only the beginning of a long struggle. The Consuls ignored the vote until it was no longer safe to do so; then they took it to the Senate. In virtue of this new law the Plebiscita acquired a position they had never held before; they were recognised "de iure" as well as "de facto" as the regular expression of the will of the Commons which the chief magistrate and the Council were legally bound to take into consideration. Result of this Valerio-Horatian Law.

The second Valerio-Horatian Law relates to the Provo- The Law catio (right of appeal). This had been guaranteed to the people by an old law in the early days of the Republic, but the penalty for violating this right was only Infamia. The concerning Provo-catio.

¹ Mommsen holds that the *Val.-Hor. Law* created the Comitia Tributa. *Publil. Law* gave it power of legislation under presidency of Praetor. *Hortens. Law* gave same power to Concilia Plebis.

Willems' view is that all laws and elections of the Comitia Curiata and Centuriata needed the Patrum Auctoritas.

The *Val.-Hor. Law* put Comitia Tributa and Concilia Plebis on the same footing as those.

Publil. Law made the Pat. Auct. preliminary. *Hortens. Law* abolished it altogether for Plebiscita

right had been assured to the citizens by law in the Twelve Tables, and this law was of the nature of a supplement; for the Decemvirs themselves had been created 'sine provocazione'; there was no appeal against their sentences, and the tyranny of Appius Claudius had shown the danger of this freedom from control. A law was now passed that no one should ever after create a 'magistracy without appeal';¹ anyone guilty of doing so could be slain with impunity.

The Law concerning Inviolability of the Plebeian Magistrates. Another regulation concerned the inviolability of the Tribunes: it would seem that the original 'Lex Sacrata' which introduced this had not actually been a law but an oath taken by all the citizens, that the principle was now for the first time established by law, and extended to apply to the aediles and the subordinate judicial officers ('Decemviri stlitibus iudicandis') as well.²

The Law concerning Senatus Consulta. The final measure provided that copies of the decrees of the Senate should be given to the Plebeian Aediles, as well as to the Patrician Quaestors, and preserved by them with their own records in the Temple of Ceres, to prevent the possibility of suppression or forgery by the Consuls. There is far greater significance in this decree than appears on the surface; it recognised that the Plebs had a right to know the proceedings of the aristocratic Senate, and to keep a check on their administration, and with this recognition there went a great increase in the power of the Tribunes. From this time forward they gained the privilege of listening to the debates of the Senate; they were not at first admitted to the Council chamber, but sat on a bench at the door; they had no right of speaking or voting; they were merely there to watch the proceedings in the interest of their order. The natural result soon ensued; they gradually extended their powers of interference, till the Senatus Consulta came

¹ Liv. 3. 55. 'Ne quis ullum Magistratum sine provocacione crearet,' where 'magistratus' = magistracy *not* magistrate; for there was no provocatio against the Dictator till about 300 B.C., even if it was allowed then, which is open to doubt.

² Liv. 3. 55. 'Et cum religione inuiolatos eos tum lege etiam fecerunt sanciendo, ut qui tribunis plebis, aedilibus, iudicibus decemuiris nocuisset, eius caput sacrum Joui esset.'

within the sphere of their 'Intercessio' and they could veto any business of the Senate at pleasure. As time went on this power extended still further and their veto gradually embraced every branch of the government; they could invalidate the particular act of an individual magistrate, or any proposal affecting the community at large; they could stop a decree of the Senate or an election in the Comitia; in short they had an absolutely unlimited power of obstruction.

The actual course of events during these few years had greatly improved the position of the Plebeians and their Tribunes. The Plebs had gained much by the publication of the laws; the Tribunate was restored with far greater powers of protection than before, and with a position no longer dependent on the carrying out of a compromise or a solemn oath, but recognised by the law of Rome. They had lost jurisdiction in capital cases, but retained wide jurisdiction in all cases that could be met by the imposition of a fine; their assembly was recognised by law; they were further protected by the new law of appeal; social and political equality they had yet to win, but they had emerged from the first part of the struggle with the Patricians in possession of the great prize of legal equality.

Improved
political
position of
the Plebs.

CHAPTER IV

THE STRUGGLE BETWEEN THE ORDERS—SECOND PERIOD

The
Plebeians
take the
offensive.

THE first period of the struggle between the Patricians and the Plebeians extends from 494-449 B.C. During the whole of this period the chief aim of the multitude had been to protect themselves by means of the Tribune against unjust administration. They had gained a code of laws, and the legislation of 449 B.C. had given them a political footing in the State; it had in fact placed them in the position to enter on the second stage of their struggle. For henceforth the Plebs no longer fight on the defensive against actual oppression; they take the offensive and direct their efforts to attaining absolute political and social equality. Hitherto the Plebeians had seemed to trouble little about their political disabilities, and no doubt the same still applied to the great majority of them; they did not at once change their ideas, though the success of their two great agitations must have convinced many of them that their power was a reality. The chief reason for the apparent change in tactics is that the rich Plebeians, who had stood aloof or sided with the Patricians in the struggles rising out of the relations of debtor and creditor, and the mismanagement of the public land, began to throw in their lot with the poor Plebeians, not out of any sentiment of loyalty to their order, but because they saw in the increased powers of the Tribunes and Plebeian Assembly a means of gaining the political equality with the Patricians to which their wealth seemed to entitle them, and the political power which some of them had first tasted in the second Decemvirate.

Change
in the
appoint-
ment of
Quaestors.

As early as 447 B.C., only two years after the Valerio-Horatian laws, a significant change was introduced. Hitherto the two Quaestores, to whom had been given on the institution of the Consulate the care of the State Treasury

(Aerarium), had been nominated by the Consuls; but in 447 B.C. the appointment was taken from the Consuls and transferred to the people.¹ We know that in later times the Quaestors were elected by the Comitia Tributa under the presidency of a Patrician magistrate, and there is no reason to believe their election ever took place at the Comitia Centuriata. It is sometimes stated that the first election of these officials (who were Patricians) took place at the Plebis Concilium presided over by a Tribune, and that this was the first Plebiscitum having the force of a law. This view seems hardly correct. The Quaestors being henceforth State Magistrates, it was natural that they should be elected not by the Plebs alone but by the whole people, *i.e.* the Comitia; and being inferior magistrates, who were in no case to be entrusted with the Imperium, they were chosen not by the Comitia Centuriata, but by the Comitia Tributa, the assembly of the whole people voting by tribes, which had hitherto been restricted to judicial functions.² It seems moreover on general grounds in the highest degree improbable that the Quaestors, who were still Patricians, should have been elected by an assembly to which Patricians were not admitted. The importance of the change was that it gave the Plebeians an influence on the administration of Finance which they had not had before, for the Plebeian vote was of far greater weight in electing the Quaestors in the equal assembly of Tribes than in the choice of Consuls by the Centuries, where the members of the first class had such marked predominance.

¹ See Tac. Ann. xi. 22. The facts concerning the Quaestorship have been much disputed. The view taken here is that the first Quaestors were connected with the home finance, and that the two new Quaestors appointed in 421 were appointed to accompany the generals in war and superintend the military chest. This seems the more probable view; the home finance was the more important, and hence more likely to have been taken from the Consul in the interest of the Senate at an early date than the less important military chest. Mommsen holds the reverse view and this is supported by the passage of Tacitus referred to.

² Many writers hold that the judicial functions which I have attributed to the Comitia Tributa in early days belonged to the Concilium Plebis. If this is so the Comita Tributa cannot have existed before 447 B.C.,

Renewal
of discord.

The restoration of the old methods of government was accompanied by all the bitterness which had marked the years preceding the Decemvirate. Moderate men on both sides were no doubt anxious to do all they could to remove friction, but the extremists would not be satisfied; the aggressive Plebeians were encouraged by the improvement in their position, the ultra-aristocrats were terrified by their advance, and we read of constant struggles between the Commons and the younger and more violent Patricians. Livy tells us that the Consuls Valerius and Horatius after the passing of their laws were refused a triumph by the Patricians for their great victories over the Volscians and Aequians, whereupon the Plebeian assembly made use of its new powers of passing resolutions binding on the whole people, took the matter into its own hands, and granted the triumph. This is a story founded on a double mistake—firstly, Livy entirely mistakes the real force of the law about the Plebis Concilium, and secondly, he wrongly interprets the actual position of the Consuls, who so far from being in opposition to the Patricians were closely identified with the majority of their order.

The
Canuleian
Laws.
445 B.C.

The blow fell upon the Patricians in 445 B.C., when a Tribune Canuleius came forward with a proposal, backed by the united force of his order, for sanctioning inter-marriage between the Patricians and Plebeians; this was closely followed by a proposal of the other nine Tribunes that the Consuls should be chosen from both orders without distinction.¹ This is the first distinctly political move of the Plebeians against the Patricians, and was beyond a doubt manœuvred by the wealthier members of the non-privileged class, for it was they and not the poor Plebeians who were likely to benefit by the change. The proposal was bitterly opposed by the Patricians, for it meant the extinction of their order. The three pillars on which the Patriciate rested were nobility of birth (which was secured by prohibi-

and the first operation which can be ascribed to the Comitia Tributa is the election of the Quaestors.

¹ Liv. iv. 1. 'Ut populo potestas esset seu de plebe seu de patribus uellet consules faciendi.'

tion of marriage outside their caste), exclusive possession of the magistracies, and monopoly of the State religion. All these three privileges were threatened by the Plebeian demands; the demand for intermarriage meant the gradual disappearance of a nobility of birth; the claim for admission to the Consulate meant the investiture of Plebeians with the supreme executive power of the State; and as a consequence it implied the right of taking the Auspices and consulting the gods of Rome, a right which belonged to the Consuls. If the Patricians let both these measures pass their position in the State was gone; but the struggle does not seem to have been a long one; the Patricians had no doubt a vivid recollection of the last occasion on which the Plebeians had shown their strength and the two wings of the Commons, the rich and the poor, stood firmly together. The chief objection of the Patricians was based on religious grounds; the intermixture of Patrician and Plebeian families would cause a confusion in private 'Sacra' and the admission of the Plebs to the Consulate would imply the recognition of their power to offer sacrifice for the community—a power which belonged only to members of the original Roman stock. There may have been some sincerity in this claim; at this time it may have been more than the mere pretext it undoubtedly seemed in later years. In any case the Patrician opposition conducted the campaign with much skill, and it was nearly eighty years before the proposal first mooted by the colleagues of Canuleius was finally carried by Licinius Stolo and Sextius Lateranus. The Patricians, who must have seen they were fighting a losing battle, resolved to make the necessary concessions, and not provoke the Plebs to insist on their full claims by reckless opposition. It was manifest to them that what the mass of the Plebeians wanted was the removal of the *social* rather than the *political* inequalities; the social barrier erected between the orders was infinitely more exasperating to the general mind than the political advantages of the Patricians for which the majority of the Plebeians no doubt felt they had not the necessary qualifications. It was the legal prohibition of intermarriage by the Twelve Tables that

marked their inferiority, not on grounds of ability or education, but purely because of their birth, that appealed to the sentiment of the masses. The secondary measure concerning the Consulate did not enlist the same sympathy, and was particularly directed to secure the elevation of the wealthier Plebeians. It was absolutely necessary to yield something; the difficulty was to find a fitting compromise. At last the Patricians decided to pass the law legalizing intermarriage as it stood, and endeavour to effect a favourable arrangement on the other proposal, which the majority of the opposition had less at heart. This was the second great triumph of the Plebs; the Twelve Tables gave them Legal Equality, the Canuleian Law gave them Social Equality.

Institution
of the
Military
Tribunate.

The method in which the Patricians fought the other proposal is characteristic of their whole policy during this period 449-367 B.C. They recognised the weakness of their own position, and the impossibility of permanently delaying the political equality which the Commons demanded; but they understood the art of checking the Plebeian advance, of making worthless concessions under a showy exterior, and of abandoning their positions one by one, so that the final terms which they should have made at once in the interest of peace and good government were only signed after a struggle of eighty years. The very admission of the right of intermarriage destroyed their chief argument against the concession of a share in the State magistracies. It could no longer be claimed that the Patricians were a distinct caste, governing the multitude by virtue of a superior social position; it was abundantly manifest that their policy henceforth was directed by political selfishness. It was agreed that the law for opening the Consulship to Plebeians should be dropped; that a new administrative college, to which was given the name 'Tribuni Militum Consulari Potestate' (Military Tribunes with Consular power), should take the place of Consuls for that year, and that Plebeians should be eligible for election.¹ This college was based on the pattern of the ordinary staff of a Legion, which was officered by six Tribuni Militum, appointed by the Consuls

¹ Liv. iv. 6. 8.

from Patricians and Plebeians alike. No doubt the original number of the new magistrates was six, though according to the ancient authorities it seems to have varied. That this curious college did originate in some such compromise seems almost beyond doubt, though there is another tradition which represents their origin as being due to the need of a larger number of generals in consequence of the continual wars. This may have had something to do with the change, and at any rate was likely to have been put forward by the Patricians to excuse a change which, while conceding a share in the supreme magistracy, was of far less significance than the change demanded by the Plebeians.

These Military Tribunes had full Consular power, civil and military, in Rome and in the field, but the very name shows that their military functions were regarded as the more prominent. They arranged the distribution of business among themselves, one or two staying in Rome to administer the affairs of the city and superintend judicial work, while the others commanded the legions. Why then did the Patricians concede to the Plebs a share in the supreme magistracy and yet refuse to admit them to the Consulship? The answer is to be found in the intense aristocratic prejudice of the Patricians; they gave up a share in the government; they surrendered their exclusive right of taking the Auspices; but they clung obstinately to the hereditary honours which the Consulship and nothing else conferred. By immemorial custom the holding of the Consulship ennobled the holder, and gave him the 'Jus Imaginum,' the right of placing his image in the hall of the family, and exhibiting it in public, with those of his ancestors who had held the same office, in festive processions and at funerals. In later years there grew up in Rome a nobility of office, not unlike the old nobility of birth, consisting of a small group of families who were distinguished from the rest of the citizens by the possession of this 'Jus Imaginum.' Even in these early days there may have been a smaller noble circle within the Patriciate; whether this was the case or not, it was this symbol of nobility, inseparable from the Consulate, which the Patricians

The nature
of the
Military
Tribunate.

refused to share with the Plebeians; and the compromise was the more readily accepted by the latter, because they would not be likely to understand the force of aristocratic sentiment which attached to the name 'Consul.' In point of dignity then the Military Tribunes stood on a lower level than the Consuls; moreover they could never enjoy a triumph; in fact, 'they acquired the legal position, not of the holder of a curule magistrate, but of a simple staff officer.'

But the Patricians had other resources to fall back upon; they had means at their disposal to make the concession to the Plebs practically worthless. The elections were to be held at the *Comitia Centuriata* and the Military Tribunes were to be elected from Patricians and Plebeians without distinction ('*promiscue ex patribus ac plebe*'); it will be noted that no *necessity* existed for electing a Plebeian, no places were reserved especially for them,¹ and the Patricians could generally rely on securing a favourable return at the Centuriate assembly. Further, the Consulate was not abolished, it was only shelved, and the concession of the Military Tribunate only applied to the following elections; it was instituted for the one year only, and every time the elections came round the question arose whether Consuls or Military Tribunes should be elected for the following year. The settlement of this question probably depended on the Senate, and when there was any likelihood of a strong Plebeian candidate contesting the election, the Patricians could always fall back on the Consulship, or even on the nomination of a Dictator. In the first few years Consuls are of frequent occurrence; afterwards the practice of restoring the Consulship fell into disuse, so that during the seventy-

¹ Dionys. xi. 60 is certainly wrong. ἀντὶ τῶν ὑπάρτων χιλιαρχ ἀποδειχθῆναι, τρεῖς μὲν ἐκ τῶν πατρικίων, τρεῖς δὲ ἐκ τῶν δημοτικῶν; the normal number was probably six, but no regulation was made that three should be Plebeian. He goes on to say that when the time came for the election τὸνδῆμον καὶ τὴνβουλὴν αὐτοῖς ξυνελθόντας διαγινώσκει πότερον ὑπάρχουσιν ἢ χιλιάρχους βούλονται παραλαβεῖν τὴν ἀρχήν. It is impossible that the assembly should have had any voice in the discussion as to whether Consuls or Military Tribunes were to be elected.

seven years over which the Military Tribune existed Consuls were appointed only seventeen times.

But it was in their unlimited power over the elections that the Patricians found their chief defence. The ordinary weapons of bribery and corruption were of course not neglected, witness the law passed to check the practice in 432 B.C. (*Lex de Ambitu*)¹; and if all else failed the Patrician College of Priests could easily be persuaded to find a flaw in the ceremonial which was thought sufficient to invalidate the election. With all these obstacles to contend against it is hardly a matter for surprise that forty-five years passed before a single Plebeian gained a place among the Military Tribunes. And the Patricians were further helped by the dissension that prevailed among the Plebs; at times the rich and poor Plebeians might combine, as they did to carry the *Canuleian Law*, but the coalition was only temporary. There was no real sympathy between the rich Plebeians and the poor farmer class whom they were defrauding of their share in the public land; for economic distress continued to exist during this period, though the general level of prosperity was rising. The two sections of the Plebeians might make use of one another when they had anything to gain by it, but the temporary nature of the union was a factor on which the Patricians could safely rely.

In the year following the institution of the Military Tribune was founded yet another magistracy, the Censorship. Livy's account of it is as follows²—'This year was marked by the institution of the Censorship, an office which had a small beginning, but attained such magnitude that it was invested with the supervision of the morals of Rome, and the constitution of the Senate and the centuries of knights; the Censors decided what was honourable and dishonourable; the legal right to public and private places depended on their judgment; the revenues of the Roman people came to be at their disposal. The origin of the Censorship was this: no

Patrician
control of
the Elec-
tions.

Institution
of the
Censor-
ship.

—
Livy's
account.

¹ The existence of this law is much disputed. Livy mentions it iv. 25. 13, but soon forgets it, for he says that the '*Lex Poetilia de ambitu*' of 354 B.C. was the first law against bribery.

² Liv. iv. 8.

assessment of the people had been made for a long time, and the taking of the census was an imperative necessity, for which the Consuls with so many wars threatening had no leisure. The observation was made by the Senate that a laborious task such as this, for which a person of the Consul's rank was by no means suited, needed a special magistrate. It was a small matter, but the Patricians eagerly accepted the suggestion because it meant an increase in the number of Patrician magistrates, thinking possibly that the influence of those chosen to fill the post would invest it with authority and dignity, as actually happened. The Tribunes considering only the necessity for taking the census, and fearing to seem perverse by raising difficulties over trifles, offered no opposition. The leading men of the State refused the office with contempt, and the people at last elected Papirius and Sempronius to take the census.'

Criticism
of this
account.

There is the usual admixture of truth and falsehood in this story. The institution of the Censorship was thoroughly in accord with the policy of the Patricians. There now began the practice of breaking up the wide administrative power of the Consulate, and handing over the functions so separated to new magistracies which were to be restricted to Patricians. Of these the Censorship was the first. The old idea of a chief magistrate with general administrative powers extending over every branch of government was definitely abandoned, and the new system naturally produced greater efficiency in all departments. In fact this consideration itself may have had not a little to do with the institution of the Censorship, though the innovation would hardly have taken place but for the fact that it accorded with the general interests of the Patricians. Rome was a rapidly extending community; the supervision of the budget, the arrangement of the citizen-lists and taxation, the assessment of property and the enrolling of the citizens in their proper tribe and century were necessary to avoid unlimited confusion. Formerly these tasks had been undertaken by Consuls every four years, and it so happened that the time for the revision of the lists fell in the year after the creation of the Military Tribunate. Now this business of the census was

becoming every year more burdensome, while at the same time military operations were making greater calls on the commanders' energies; it was impossible that the tedious and elaborate work of taking the census, with all the re-organisation of the community which it implied, could be satisfactorily performed in the intervals of warlike activity; it was burdensome enough to need a special magistrate, and no time could have been more fitting for this innovation than the occasion when the Consulate had been temporarily shelved in favour of a new college whose very name showed their peculiarly close connection with the military part of the Consuls' functions. Of course the Censors had not at first the importance they subsequently obtained, but the story of the refusal of leading Patricians to hold this office as being beneath their dignity has no sort of probability.

In later times we know that Censors were appointed every fifth year, and that their actual tenure of power extended over only eighteen months. The traditional accounts tell us that the Censors at first held office for the whole four years but that in 434 B.C. the Dictator Aemilius passed a law by which their actual tenure of power was limited to eighteen months.¹ The existence of this law has been doubted by many, and the whole story of the Censorship in Livy is untrustworthy and looks like a late invention to explain the curious fact that the Censors alone among the Roman magistrates held office for eighteen months. The conclusion has been drawn by some writers that the Censorship of 443 B.C. is a fiction; that the Aemilian law actually instituted the Censorship in 434 B.C., and the period of eighteen months for their term of office was original. It seems more probable that they were originally appointed not for *four* years but for *one*. They were two in number, appointed to take over a definite branch of work

¹ Liv. iv. 24. 5. 'Alios magistratus annuos esse, quinquennalem censuram. Graue esse isdem per tot annos magna parte uitae obnoxios uiuere. Se legem laturum ne plus quam annua ac semestris censura esset.' This is not worth much; the Censors' powers were not yet very extensive, and the people could not at this time be said 'Censoribus obnoxii uiuere.' The five years as their original time of office is also evidenced by Zonaras vii. 19. ἤρχον τὰ μὲν πρῶτα καὶ τὰ τελευταῖα ἐπὶ πενταετίαν.

that had hitherto been left to the Consuls, and the probability is that the office was a copy of the Consulate in its circumstances ; the number was the same ; the Censors were elected at the *Comitia Centuriata*, and like the Consuls they held office for one year, just as the Military Tribunes did, and the Praetors, who were afterwards created under exactly similar circumstances to the Censors. But soon it became clear that a year did not give them enough time to complete their somewhat laborious work of revision, and their period of office was extended to eighteen months.

Frequent
occurrence
of the
Dictator-
ship.

From the time of the Canuleian to that of the Licinian Laws the Patricians stood obstinately on the defensive to save the Consulate from being contaminated by the Plebeians. The means by which the Patricians still contrived to keep the actual power in their own hands have been already indicated ; there were dangers in supplanting the Military Tribunes too often by Consuls ; it was advisable to keep the Consulship in the background as far as possible, and so this period is in a remarkable degree the period of Dictatorships. The most striking figure of this time in Rome was Camillus, the sturdy champion of the Patricians against the Plebeian advance, the greatest general of his age, the reorganiser of the Roman army, the man whose name later generations identified so closely with the very existence of Rome, that they invented a tradition to connect his name with the rescue of Rome from the Gauls. Camillus was never Consul ; but he was six times Military Tribune and five times Dictator. The strength of the Plebeian attack is shown by nothing more clearly than the fact that it was only by having recourse to the Dictatorship, the revival of the kingly power, that the Patricians could check the opposition.

Addition
of two
Military
Quaestors.

The gradual tendency of the period is shown by the events of 421 B.C. In this year were added two more Quaestors who were to take charge of the Military chest, just as the two existing Quaestors superintended the treasury of the city. This is another example of the principle of dividing up the powers which had hitherto belonged to the supreme Consul and placing them in the hands of officials who were, like the Censors at first, on an inferior footing to the chief magistrates.

The management of the Aerarium had already been lost to the Consul in 509 B.C. and the appointment of the two Quaestors transferred to the Comitia Tributa in 447 B.C.; the institution of another pair of Quaestors for the Military chest, as if the Consuls and not the more numerous Military Tribunes were still the Commanders in chief of the Roman armies, seems to show that the Military Tribunate was not regarded as holding a permanent place among the institutions of Rome. The important point in the innovation is that these Quaestors, like the city Quaestors,¹ were elected not by the Centuriate, but by the Tribe Assembly, and that the Plebeians themselves became eligible. Not only then was an important function removed from the Consuls' hands, but the Plebeians obtained the right of performing it; moreover the fact that the election took place in the Comitia Tributa gave the Plebeians a greater chance of success than they had in the case of the Military Tribunate, the appointment to which lay with the centuries; for while they were forty-five years gaining a seat among the latter, the first Plebeian Quaestor was elected in 409 B.C., twelve years after they had been declared eligible.

The period which is now under consideration (449-376 B.C.) falls naturally into two parts divided by the Gallic invasion in 390 B.C. During the first fifty-five years while the struggle for political equality was going on, while the Plebeians were slowly but surely advancing towards the Consulship, and the rich Plebeians were using the Tribunate to secure political advantages, the social evils and economic distress which had been so prominent in the earlier years of the Republic, and had been the cause of the earlier outbreaks, were kept in the background. But these evils had by no

General
condition
of the
people.

¹ Mommsen's view of the institution of those Quaestors is curious, and I can find no authority for it: see Hist. i. 300. He says there were at this time four Quaestors, two for the city chest nominated by the Consul, and two Military paymasters elected by the Comitia Tributa. The Patricians wanted to take the nomination from the Consul and give it to the Centuries, Patricians alone to be eligible. This plan was frustrated. The nomination was taken from the Consuls but given to the Tribes, and Plebeians became eligible for the Quaestorship.

means ceased to exist. The small farmers still suffered heavily from the continuous wars; the severity of the laws of debt had not been mitigated; the administration and assignation of the newly acquired public lands still lay entirely with the Patricians who, of course, consulted exclusively their own interest.

No important assignation of land had taken place since the Aventine was given up to the Plebeians by the Icilian Law¹ in the struggle immediately preceding the Decemvirate. This was merely a temporary measure and in no sense a settlement of the question; it gave the Plebeians a definite district within the city walls, but little more. The wars with the Aequians, Volscians and Etruscans were almost continual; the very burden of perpetual service itself was fatal to the proper development of their lands by the small farmers.

Meantime the introduction of coined money which followed the legislation of the Twelve Tables gave a fresh impetus to all forms of trade and commerce, and opened extensive commercial relations between Rome and the surrounding nations. This of course told almost entirely in favour of the wealthy Plebeians and Patricians who soon came to form a capitalist class, and continued to amass wealth while the small farmers were continually sinking into deeper poverty than ever.

The
Agrarian
question.

The Agrarian question was simmering throughout the whole of the first half of this period. It was a legacy of the Patrician administration from the first years of the Republic. From the time of Rome's earliest conquests there had been certain 'Agri Publici' (public lands), which belonged to the Roman people. The usual custom was to deprive a conquered people of one half of their territory; this passed into the possession of the Roman people for whom it was administered originally by the kings. Generally the arable and untilld land was treated differently; the former was divided into allotments and assigned in absolute ownership to the citizens; the pastures or uncultivated lands were allowed to be occupied by any citizen, the State still reserving the actual ownership of the land, and having legal power to resume these lands at any moment. Now the king,

¹ p. 76.

who had discretion as to the allotments to be made, having the interests of the State as a whole at heart, might not un-naturally admit the small Plebeian farmers, especially after they began to serve in the army, to a share in the allotments, and might even grant them permission to feed their cattle on the public land, for which a 'scriptura' was paid according to the number of the cattle so pastured. But with the expulsion of the kings came a decided change; the whole administration of the public land lay in the hands of the Senate, and only the Patricians were regarded as having the 'Jus occupandi agrum publicum,' the right of 'occupying' the State lands, and these lands were now very largely increased by the addition of the confiscated Agri Tarquinienses. The practice was also introduced of treating arable in the same way as pasture land, so that, instead of being divided into allotments, much of it was left for occupation by the Patrician burgesses on payment of one tenth of the produce of corn land or one fifth of vineyards. These payments were naturally not exacted strictly by the Patrician administrators, and thus an important source of revenue was closed. Even these advantages were not sufficient for the Patricians; the practice grew up of selling the arable land taken from the enemy through the Quaestors. Now the Patricians and wealthy Plebeians, being the only members of the community who were in a position to buy, received another unfair advantage, for they could buy at their own price land which it had hitherto been customary to divide among the citizens.

The attempted reform of Spurius Cassius in 486 B.C. has been commented on above.¹ The proposal affected those lands to which the State had not surrendered its title, though temporary *de facto* possession belonged to the burgesses; it was an attack on the 'Jus occupandi agrum publicum' which was monopolised and abused by the wealthy members of the State, who struck a double blow at the farmer class; not only did they occupy land which should according to custom have been allotted, but by failing to pay the 'scriptura' and 'decumae' they robbed the treasury and increased the

Scanty
allotments
to
Plebeians.

¹ p. 69.

burden of the 'Tributum' which had to be contributed by all alike in time of war. Cassius failed, and nothing was done to help the farmer class by a more equitable administration of the public land. But as the Plebeians grew in importance the Patricians must have recognised in practice their right to receive assignments of public land which perhaps they had at first denied; such allotments were made in 442 B.C. in the conquered territory of Ardea, at Labici in 418 B.C. and Veii in 393 B.C. But the object was rather to plant military posts in the newly conquered land than to do anything for the suffering farmers, and so the amounts given were utterly inadequate.

Fresh
Agrarian
proposals.

As long as the Patricians pursued their selfish policy, it was natural that the agitation for a change in the system of the public land should survive. On the conquest of Labici we are told there were hints of a proposal to allot the newly conquered land to the commons, and the Senate, taking the bull by the horns, itself passed a resolution for the planting of a colony at Labici; but this did not satisfy the Plebeians, and in the following year Maecilius and Maetilius, two Tribunes of the Plebs, formulated a proposal for dividing among the citizens land taken from the enemy.¹ This account is sufficiently vague to be quite useless; it is probable that they followed in some way in the steps of Cassius, and made a proposal for the more just administration of public land, the measure beyond all doubt being intended to help the poor Plebeians. The fate of the attempt is in no doubt; it unfortunately attacked the rights of the rich Plebeians (who were extensive holders of public land, which they had either bought at a low price, or had been allowed to occupy) just as much as the Patricians, and in these circumstances, it was of course not difficult to secure the Tribunician veto. It is probable that during this period the Plebs were allowed to feed their cattle on the public pastures; but the right meant little to them compared with the great advantages it gave to the rich owner of large herds. In fact the whole system of the Roman public land, which if properly administered would have

¹ Liv. iv. 48.

supported a large and independent class of small farmers, was arranged exclusively to benefit the rich.

Nor was this all; not only did the government rob the Commons permanently of their rights, it did nothing for them in times of temporary distress. During the great famine of 439 B.C. it was left for a rich citizen Spurius Maelius to buy corn from Etruria, and distribute it at his own expense to the starving people. The aristocracy could not allow such things to pass unnoticed; their whole system depended on the loyalty with which every member of their class stood together, and merged his own individual interests and ambitions in the interests of the order. Spurius Maelius had gained popularity by his efforts to help the poor, but he had violated the traditions of the aristocracy; a pretext was formed to justify his removal; it seems likely that he was murdered by Ahala and the traditional story invented afterwards. It is quite possible that the cry of 'a king' was raised to alienate the people from him; at any rate his end was like that of Spurius Cassius fifty years before, and Gaius Manlius fifty years later; no member of the community, whether Patrician or Plebeian, was to be allowed to bring odium on the government by personally supplying the deficiencies of the ruling class.

In spite of the general selfishness and maladministration of the government, the fifty years from 440-390 B.C. would seem to have been marked by a slight increase of national prosperity as compared with the period immediately preceding. The power of the Aequians was not what it had been; the farmers in the immediate neighbourhood of the city suffered less than before from the raids of the hostile tribes. The Roman outposts were advancing on every side, and in 406 B.C. began the war with Veii which was to have such an important result, the payment of the troops out of the State chest.

It had been one of the features of the Army organisation of Servius Tullius that the burdens of service were made to depend on the quantity of landed property possessed by each freeholder; all had to equip themselves, and the wealthier

Spurius
Maelius.

Slight
increase of
general
prosperity.

Introduc-
tion of
State pay
for the
army.

citizens had to provide themselves with a full suit of bronze armour. Besides this they had to provide themselves with all the necessaries in the field; but this practice must have soon fallen into abeyance. It was possible for a man to take a day's provisions when the army was merely called out to repel a band of freebooters or check a border raid; but as the sphere of Roman military operations extended, such a system became impossible; as soon as expeditions began to extend over one month or more, the State had to see to the maintenance of the army, and a tax was levied on the various districts or tribes, whence it was called 'Tributum.' Each of the Tribes raised a definite sum of money proportionate to the amount of freehold land which the Tribe embraced; from the money thus raised each individual received the sum required. When the expedition was over, the Tributum was repaid out of the spoils if the Romans had been successful; otherwise repayment must have been tardy and doubtful. Manifestly however, this system was an advantage to the poorer classes, for the amount of the Tributum being assessed on the 'Census' return, the rich citizen paid a much larger sum than the small freeholder, and it was possibly on this very ground that the rich Plebeians and Patricians based their claim to so disproportionate a share in the public land. But although the burden on the poorer citizen was thus lightened, it was by no means inconsiderable when the Tributum came to be levied year after year, in the event of a long and difficult war, and no money was forthcoming for the repayment of it. As early as 424 B.C. we are told that a scheme was mooted for raising pay for the armies by imposing a tax on the holders of public land.¹ Finally when the long siege of Veii necessitated the continuance of service even through the winter, the old system of pay was abolished, and the 'Stipendium' (military pay) was made a regular charge on the State chest; it had to be met by the indirect revenue (which was very insufficient), and the income derived from the State domains, which formed far the greater part of the State revenue. Steps must have been taken to enforce the payment of the

¹ Liv. iv. 36. 2.

'scriptura,' and the other charges on the public land, with greater strictness than before; so that the pay was now more than ever a charge on the rich holders of public land. The Tributum was not permanently abolished; it remained as a special war tax which was only raised in circumstances of great difficulty when the treasury was empty, and it was always regarded strictly as a loan to be repaid at the earliest possible opportunity.

The rapid extension of Rome, which had seemed likely to follow immediately on the conquest of Veii, her most powerful neighbour, received a terrible check from the Gallic invasion of 390 B.C. This event, which paved the way for the future greatness of the city by breaking up the power of the Etruscans and striking a blow at the Aequians and the Volscians from which they never recovered, brought Rome for the time to the verge of ruin; the city itself was in ashes, all the economical distress was increased tenfold, and amid the ruins of their old homes the people re-entered on their struggles, the poor Plebeians striving for economic reform, the rich Plebeians looking for a chance to gain political equality with the Patricians on the basis proposed fifty-five years before.

The retirement of the Gauls was followed by the last struggle of the Volscians against Rome. Everything had been thrown into confusion by the Gallic invasion; the Latins and Hernicans even were wavering, and doubting the expediency of any longer standing by the ruined city. But under Camillus, the second founder of the city, the Romans triumphed over all their difficulties, and the danger from the Latins grew less as the fortunes of Rome rose. So marked had been the fall in the power of the Etruscan cities since 390 B.C. that in 387 B.C. Veii, Falerii, and Capena were admitted to the Roman citizenship and enrolled in four new tribes, which raised the total of the Tribus Rusticae to twenty-one: and two years later Rome had been so successful against the Volscians that a Latin Colony¹ was sent to Satricum. But nothing shows the increasing strength of Rome at this time,

¹ p. 148.

and their growing ascendancy in Latium more clearly than their policy to the Latin League, which they closed finally about 385 B.C.; the colonies henceforth founded by Rome in conjunction with the Latins were not enrolled as members of the old Latin League.¹

Renewal of
economic
troubles.

During these years of successful warfare economic troubles had not ceased to be prominent; in 388 B.C. the question of dealing with the newly acquired territory was raised with reference to the Pomptine land which had now been won from the Volscians; but the Patricians, favoured by the constant wars, managed to avoid the question for a time. The question of debt was again becoming as serious as it had been in 495 B.C. Many of the poor Plebeians and small farmers had been brought to utter ruin by the ravages of the Gauls; even their homes had been destroyed, and to rebuild these and stock their lands they had been obliged to resort to the capitalists with the same results as in former years. Marcus Manlius, the saviour of the Capitol, a rich Patrician and personal enemy of Camillus, endeavoured to help the oppressed debtors by freeing them from bonds at his own expense, and had to pay the usual penalty of those who hoped by personal influence and private efforts to save the Commons from the rapacity of the rich. It is possible that the outcry raised by Manlius against the Patrician mismanagement was the cause of the colony sent to Satricum in 385 B.C., which may have afforded relief to a small number of distressed Plebeians; but in the following year Manlius himself was attacked; the old charge of aiming at regal power was trumped up against him, and he met the fate which Cassius and Maelius had met before — so firm was the Roman government in its determination that the scanty favours conferred on the Commons should come from the State. In the following year the Pomptine land was assigned in allotments to the Plebeians, and Latin colonies at Sutrium and Nepete in Etruria and at Setia in Volscian territory marked the advance of Rome on all sides. A new and severe war then broke out with the powerful city of Praeneste; the combined burdens of war and debt were more than the Commons

¹ p. 150.

STRUGGLE BETWEEN THE ORDERS III

could bear, and in 376 B.C. two Tribunes of the Plebs, Gaius Licinius and Lucius Sextius, brought forward their celebrated proposals 'all directed against the power of the Patricians and in the interests of the Plebeians.'¹

The series of bills introduced was a comprehensive plan for economical, social and political reform, and the combination of these proposals in one scheme was due to the fact that for the first time since 445 B.C. the two wings of the Plebeian party stood together; the poor needed the aid of the rich to secure economic and social reform; the rich took the opportunity of securing with the assistance of the poor Plebeians the political equality and admission to the Consulship to which they had never ceased to look forward. The famous Licinian Rogations were as follows.²

The
Licin
Sextian
Laws.
367 B.C.

I. *Economic.*

1. To relieve debtors the amount of interest already paid should be deducted from the principal and the remainder paid off in equal instalments in three successive years.

2. No citizen should be allowed to occupy more than five hundred Jugera (about 300 acres) of public land, or to feed more than one hundred head of oxen and five hundred sheep on the public pastures.

II. *Social.*

Landlords were to be compelled to employ on their lands a certain fixed proportion of free labour.

III. *Political.*

1. The Consulship was to be restored and the Military Tribunate with consular power permanently abolished; and one of the Consuls henceforth must be Plebeian.

2. One of the great sacred colleges was to be thrown open to the Plebeians. The keepers of the Sibylline books, who had hitherto been only two, in number (Duoviri Sacris

¹ Liv. vi. 35. 'Promulgauere leges omnes contra opes patriciorum et secundum plebem.'

² Liv. vi. 35.

Faciundis), were to be increased to ten (Decemviri Sacri Faciundis), of whom one half were to be Plebeians.

The Patricians thus found all their privileges threatened, the rich creditors would be deprived of large sums of money which they considered due to them; the occupiers of public lands and the owners of large herds saw their monopoly threatened, and their privileges encroached on by the imposition of a limit which, though by no means low, was a serious restriction; the old nobility of birth who had treasured their exclusive right to the Images of their consular ancestors saw their very existence threatened by this proposal to admit the Plebs to the highest honours the State had to give. They fought the proposed measures for ten years, always securing the veto of some members of the Tribunician College, while the Plebs showed their determination by continuing to elect Licinius and Sextius to the Tribunate. A compromise was impossible in the circumstances; the poor Plebeians would no doubt have gladly sacrificed all the political measures for the boon of the economic proposals, but this did not suit the plans of the rich Plebeians, who saw that it was only by forcing the poor to stand by them that they could attain their object—admission to the Consulate. The Tribunes used all their powers to bring the Patricians to reason; for five years (375-371 B.C.) no curule magistrates were elected, the Patricians having recourse to the Dictatorship. It was not till 367 B.C. that the Rogations became law, and Camillus, the great Dictator, symbolised the abolition of political inequality by erecting a Temple to Concord.

Effects of
the laws.

Both sections of the Plebeian opposition had now carried their demands in full; how far were their anticipations realised in the result? The Political reforms were on the whole successful; the old Gentile nobility was abolished as a political institution, and from this year dates the growth of a new Patricio-Plebeian nobility, a nobility not of birth but of office, which in course of time became almost as exclusive as the old Patrician nobility. The latter however did not submit without a struggle even after the law had passed; the law was violated on no less than six occasions between 355 B.C. and 345 B.C. by the election of two Patrician Consuls, till in 343 B.C.

Success
of the
Political
Section.

the Plebeians threatened to introduce a law opening both the Consulships to their order, and from 342 B.C. the arrangement introduced by the Licinian Laws was faithfully observed. The Twelve Tables had given the Plebeians *legal* equality, the Canuleian Laws had given them *social* equality, the Licinian Laws gave them *political* equality; the 'Jus auspiciorum' (the right of taking the Auspices), the last and most dearly cherished of the Patrician privileges, had now been invaded, and the admission of the Plebs to the sacred college of the keepers of the Oracles was significant of the impending loss of the Patrician monopoly of the State religion.

Two new magistracies were instituted at this time—the Praetorship and the Curule Aedileship. It may be that the Patricians tried as they had done in the case of the Censorship to counterbalance the loss of the Consulship by the institution of new magistracies, which were to be restricted to themselves. But there is another equally plausible reason for the change. Rome had far outgrown the very elementary form of constitution which had been evolved on the foundation of the Republic; the old theory of the single indivisible 'Imperium' was incompatible in practice with efficiency of administration; two supreme magistrates could no longer be expected to manage all the business of Rome, to lead the armies, to administer justice, to preside over the Comitia and the meetings of the Senate, and to superintend all the various executive work that devolved on the supreme administrative magistrate of the State. Already the management of the finances had been taken out of the Consuls' hands and given to the Quaestors, who worked under the close supervision of the Senate; the preparation of the budget and the citizen lists had been transferred to the Censors; moreover the need for some further subdivision of the Consular powers must have been keenly felt when the business which had given employment to six (or possibly even eight) Military Tribunes was again entrusted to the two Consuls. It was probably for this reason that the Praetorship was instituted. It is recorded that the Consuls hitherto had been called Praetors, and the name 'Consul' was now

Praetor
and Curule
Aediles.

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given them for the first time to distinguish them from the new official. This Praetor took over all the judicial work of the Consuls, and Patricians alone were eligible for the post. This was hardly unnatural seeing that the Patricians exclusively had been the lawyers of the State, and they alone had had any experience in the interpretation of law; but the monopoly did not last long; the Plebeians gained admission to the Praetorship in 337 B.C. This new magistrate was virtually a third member of the consular college, but of lower rank than the other two; like them he had the 'Imperium' and could preside in the *Comitia Centuriata* and the Senate; his relation to the Consuls is shown by the technical term 'minus' and 'majus' implied to the Imperium of the Praetor and Consuls respectively.

The new
Aediles.

At the same time there were elected for the first time two Aediles, who to distinguish them from the Plebeian officials of the same name were called 'Aediles Curules.'¹ There is no doubt that the Government intended this to be a Patrician office, on the analogy of the two Plebeian Aediles who stood by the side of the Tribunes; but in this they were disappointed, for almost immediately after its institution it was decided that the new Aediles should be Patricians and Plebeians in alternate years.² The Curule Aediles were State magistrates and were elected at the *Comitia Tributa*, like the Quaestors; the Plebeian Aediles, who always retained their character as a strictly Plebeian magistracy, were elected at the *Concilia Plebis*. At the same time the functions which had originally belonged to the Plebeian Aediles underwent some change, and these four officials, without actually forming one college, had with few exceptions, practically the same sphere of work. They were municipal magistrates with three principal duties³—(1) 'Cura urbis'

¹ Liv. vi. 42 speaks of this office as being founded by a *Senatus Consultum*. The Senate had no such powers.

² This system was extinct in 91 B.C. Mommsen (*Staatsr.* ii. 488) finds the reason for it in this:—the two Aediles were jointly responsible for the cost of the games, and this might have led to discord if the two colleagues belonged to different orders.

³ Cic. de leg. iii. 7. 'Curatores urbis, annonae, ludorumque solennium.'

(care of the city), which included the police, inspection of public buildings and similar duties. (2) 'Cura annonae,' the care of the corn supply. (3) 'Cura ludorum,' the organisation and police supervision of the public games. The main object of the appointment of the two new Aediles was to take off the shoulders of the Consul a mass of small but by no means unimportant business which generally falls to the lot of a municipal council.

Politically the Licinian Laws were a success; the rich Plebeians obtained what they wanted. The social and economic measures were as distinctly a failure. Of the three laws it is obvious that the regulation for free labour was unlikely to have any great effect; it was of course intended to give employment to the labouring class, the poorest of the Plebeians, who, having no land of their own, worked in the fields of the big landowners. It is clear that the tendency of accumulating land into large estates and farming it by means of slave labour which in later years utterly ruined the small farmers, was already beginning; but a superficial measure could do very little in face of the social tendencies of the time which led to so great a growth of slave labour, and there was moreover no definite magistracy or commission to see to the execution of the law. From the first it was doubtless more honoured in the breach than the observance. The law relating to debt must have given temporary relief to many distressed debtors; but it should have been accompanied by some measure calculated to improve permanently and conspicuously the position of small farmers, and prevent the recurrence of these troubles arising from debt. And that is where the Licinian Laws failed. What was really required was an entire revision of the system on which the public land was managed; nothing but the resumption of its rights of ownership by the State and the division of the land among the poor could have the desired effect; unfortunately in the circumstances of the period this was quite impossible. The laws were carried by a combination of the rich and poor Plebeians; the latter were only too glad to get what they could, and the law lessening the burden of debt was palpably an advantage to many of them; beyond this the rich Plebeians were not disposed to pay any very

Failure
of the
economic
reforms.

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Reasons
for the
failure.

high price for the help of the poorer members of their order ; heavy losses were inflicted by the law concerning the debts ; still heavier losses would be inflicted by any drastic proposal which was calculated to really remove the abuses of the system of public land. This accounts for the exceedingly unsatisfactory and ineffectual legislation on this point. Firstly, the maximum of land and cattle was so high as to leave an immense advantage in the hands of the rich. Secondly, the old system, under which the State could in theory assert its right at any moment, while in practice the land was virtually a private possession of the occupier, was allowed to remain in force, and thus any ultimate settlement of the question became more and more remote ; for with lapse of time the complications which would ensue on any attempt to assert the title of the State became more pronounced. Thirdly, no effective steps were taken to carry out the provisions of the law as it stood ; no magistrates were specially charged with the duty of enforcing the various limits, or allotting such lands as should fall vacant when the occupiers had given up what land they held over and above the maximum ; no steps were taken to enforce payment of the *scriptura* ; everything was left to chance. The conclusion is inevitable that this measure was never honestly intended to grapple with the problem of the public land at all. The rich Plebeians bought their right to the Consulship at the price of a remission of interest on their loans ; in the matter of the public lands their interests were those of the Patricians. The Licinian Laws could not, even if they had been carefully carried out, have had any great effect ; the whole system was bad and needed a radical change, which might have been effected at this early time with comparatively little injustice and confusion ; the selfish obstinacy of the wealthy classes perpetuated the unjust system and retained in the State the fuel for the great revolution of the Gracchi.

Not only was the measure of Licinius inadequate, but it was laxly carried out. For a time there seems to have been some supervision, and we know that Licinius himself was one of the first condemned for exceeding the maximum—a fact which proves more clearly than anything how little his

legislation had at heart the true interests of the poor Plebeians. In time all the old evils grew up again; the rich did not cease to accumulate their holdings of public land, and the difficulties of dealing with the matter were increased, for these holdings were treated as private property; in many cases the origin of the possessions was forgotten and they passed from one hand to another just like any other landed property, so that the State ownership became almost impossible to prove and any attempt to assert it would have been fraught with great injustice to the holder.

CHAPTER V

THE STRUGGLE BETWEEN THE ORDERS—THIRD PERIOD

The final
period
in the
struggle.

THE third period in the struggle of the orders covers eighty years, 367-287 B.C. In the two preceding periods the Plebeians had gained successively Legal, Social, and practically, Political equality; the old nobility of birth had politically disappeared, though like all dying aristocracies it clung to all its few remaining privileges, and the great Patrician families were probably none the less exclusive in their dealings with the leading Plebeians because their fancied superiority had ceased to be of any practical advantage. During this period all the remaining strongholds of the Patricians were stormed. This was of course inevitable when once the right of the Plebeians to the supreme office in Rome had been admitted. The years 494-367 B.C. contain the struggle of the Plebs to gain political equality with the Patricians; in the third period this equality is finally realised; and at last by the Hortensian Law of 287 B.C. the assembly of Plebs is recognised as equivalent to the 'populus,' and the body which entered on the struggle with the Patricians destitute of rights and crushed by burdens, receives the power of legislating for the whole community.

Rise of a
Plebeian
nobility.

The passing of the Licinio-Sextian laws was naturally followed by the break-up of the coalition between the rich and poor Plebeians; a permanent union was out of the question; a temporary combination was only possible when each had something to gain for which the other's assistance was indispensable. The rich Plebeians cared little for the social and economic distress for which they were as much responsible as the Patricians. Their admission to the Consulship was followed by the growth of a Plebeian nobility of Consular families, the chief of which were the Genucii,

Licinii, Poetili, Popilii, Plautii and Marcii. In the first twenty-seven years (366-340 B.C.) the Plebeian Consul always belonged to one of these six families with the solitary exception of Lucius Sextius Lateranus the first Plebeian Consul; but a closer examination of the lists shows a noteworthy circumstance; the first four families are all represented in the first nine years, but in the eighteen years following (357-340 B.C.) the Plautii and the Marcii are the only two Plebeian families to hold the Consulship except the four already admitted. It is clear from this that a small circle of rich Plebeian families soon formed a Plebeian aristocracy and rapidly grew more exclusive. This arose partly from the exclusiveness of the old Patrician families who desired that the honours of the new nobility of office should be shared by as few Plebeians as possible, partly from the jealousy of the rich Plebeians themselves, who were not slow to become imbued with the proper aristocratic spirit. The outcome of this was that a law concerning canvassing was passed in 354 B.C., which, according to Livy, was the first 'Lex de Ambitu.'¹ He tells us that Gaius Poetilius, a Tribune of the Plebs, prompted by the aristocracy, passed a law in the assembly which aimed at checking the ambition and extensive canvassing of the 'novi homines,' the 'new men,' that is those outside the regular circle of the Consular families.

In 342 B.C. occurred a serious mutiny of the army at Capua, 'Secession' of which in some respects resembled the earlier secessions in 342 B.C. which the army had played so prominent a part. The circumstances of this important event are far from clear; it seems to have originated in military disaffection, aided by economic and political reasons. It was ended by the Dictator Valerius, and the grievances were severally dealt with. Firstly, a Lex Militaris Sacrata was passed with the formality of an oath (on the model of the proceedings in the earlier secessions), which provided that no Roman citizen who had tendered his name for service and had been placed on the roll, should be struck off against his will,² and further, that no one who had served as a Military Tribune should be reduced to the rank of a centurion. It is evident that these regulations were prompted

¹ p. 99.

² Liv. viii. 41. 3.

Military
and
political
measures

by certain specific acts on the part of the Commanders by which the soldiers considered themselves aggrieved; at any rate they throw some light on the altered circumstances of military service. Evidently the Romans were anxious to serve in the Legions, and the conclusion is irresistible that they found the service profitable; war was evidently regarded as a means of advancement. If the poorest class of citizens, the Proletarii, had been accustomed to serve, we might understand that they were allured by the soldiers' pay, but it is certain that at this time the Proletariate were not enrolled, at any rate in the Legion, and the small pay would offer little inducement even to the lowest class on the census lists. It was the booty gained in the successful wars, and the prospective share in the landed allotments that generally followed the acquirement of new territory, that led to this demand on the part of the soldiers. With regard to the Military Tribunes, the appointment of these officers had lain entirely with the generals till the year 363 B.C., when the people got the right of electing one half of the Tribunes for the four regular Legions; it was their position that the new law was intended to protect; the power which lay in the general's hands of subsequently degrading those officers chosen by the people to the rank of centurions, and showing favour to those whom he himself appointed was removed.

Other proposals. The political disaffection which had much to do with this mutiny and secession, caused three Plebiscita to be passed: (1) No one should hold the same magistracy twice within ten years, except the Dictatorship and Censorship. These exceptions had reason on their side; the Dictator was appointed only in circumstances of great difficulty, and a fitting man for the post should not be disqualified by having held it before; the Censorship was still comparatively unimportant and restricted to such technical work as the preparation of the budget and census lists, which needed experience. (2) No one should hold two magistracies in the same year. This was obviously advantageous, and must have been elicited by such a case having arisen. (3) Both Consuls might be Plebeians. The first proposal was evidently made in the interest of the non-noble Plebeians; it was intended to check

the monopoly of the Consulate by a few families. The last of these resolutions was provoked by the efforts of the Patricians to regain possession of the Consulate. These Plebiscita were allowed to drop, but they were not without effect. Between 340 B.C. and 331 B.C. nine new families appeared in the Consular lists, and ten more between 330 B.C. and 287 B.C.

The trouble arising from debt which now came to a head again had been prominent for many years, and the Licinian Law on the subject had had very small effect. It was manifestly quite a temporary palliative; as long as the poorer people were able to get into debt, and the wealthy found useful employment for their capital at high interest by encouraging this tendency, such partial remedies could do very little. Attempts were made in this direction by a law of 357 B.C. which restored the maximum interest of ten per cent. fixed by the Twelve Tables; ten years later it was lowered to five per cent., and in 342 B.C. by a Lex Genucia it was abolished altogether. This law, of course, had no effect; a needy man could only borrow by breaking it, and the rich would need a high interest to cover the risk of loss. These laws were either repealed or shelved. Such questions must be left to settle themselves, and depend on the general financial position of the whole community. The legal rate of interest soon came to be fixed by custom at one per cent. a month. Usury was regarded with great aversion and those who practised it were liable to be called before the Comitia Tributa and sentenced to heavy fines. A more effective step was taken by the Poetilian Law of 326 B.C. or 313 B.C. which abolished the summary procedure which followed the 'Nexum'; it was virtually a law of bankruptcy; every debtor who declared on oath that he was worth as much as he owed could save his personal freedom by ceding his property; it further provided that henceforth no Roman citizen should be led away to bondage by his creditor except on the sentence of a court. Other attempts to remedy the financial system of the State are seen in the tax of five per cent. on the value of manumitted slaves, which, besides checking the excessive growth of the class

The question of debt again.

The Poetilian Law of Debt.

Financial measures.

of freedmen, is important as being the first tax imposed on Rome entirely on the rich. In 352 B.C. a banking commission of five men ('*quinqueviri mensarii*') was appointed to revise the general credit system, and make advances from the treasury to those who were in debt. These attempts were doubtless attended by partial and temporary success, but that they had no permanent result is shown by the circumstances of the secession in 287 B.C.

General
state
of the
Agrarian
question.

It is clear from the above that isolated attempts were made from time to time to grapple with the question and do something for the distressed farmer class, but the inherent selfishness of the aristocracy prevented the only means by which such a result could have been attained, the reorganisation of the system of public land. There were however some compensations; the wars of the period brought in a certain amount of booty and kept the treasury flourishing; assignments of land were occasionally made, e.g. two new tribes were created in 358 B.C. The increased revenue (for it is probable that the Licinian Laws were followed for a short time at least by a better supervision of the *scriptura*) rendered the imposition of the *Tributum* unnecessary; the extension of Rome encouraged commerce and fostered trade; the successes in war helped to quiet discontent; and altogether the farmer class though they had many grievances were no doubt considerably better off than they had been a century before.

Magis-
tracies
opened to
Plebeians.

This period is marked also by the admission of the Plebeians to all those offices which still remained in the hands of the Patricians. In 356 B.C. was appointed the first Plebeian Dictator; the first Plebeian *Magister Equitum* had been named twelve years earlier (368 B.C.). The Censorship was opened to them in 351 B.C., and in 339 B.C. it was enacted that one of the Censors must be Plebeian. The last magistracy to which they gained admission was the Praetorship in 337 B.C.—a delay no doubt due to the fact that the Patricians alone had experience in the interpretation of the law. Lastly, the Ogulnian Law of 300 B.C. opened

to them the important religious colleges of Pontiffs and Augurs.

At the same time, the people in its assemblies was asserting its claim to a greater share in the management of the State; this was first shown when the people took from the Consuls the appointment of twelve of the twenty-four Military Tribunes in 363 B.C. This power was further extended in 311 B.C. when they claimed the election of sixteen out of the twenty-four Military Tribunes attached to the four regular legions. Moreover, now that the Patriciate had ceased to have any political importance it was natural that efforts should be made to remove all the checks which the Patricians had on the resolutions of the people in their assemblies; and the first step in this direction was taken by the laws carried by the Plebeian Dictator Q. Publilius Philo in 339 B.C. This was a period of great discontent; the troubles of 342 B.C. though temporarily quieted had not been removed, and Rome was engaged in a fierce war against her old allies the Latins. The three laws were as follows:—

1. A law relating to the Plebiscita, the resolutions of the Concilia Plebis. The purport of the law given by Livy is 'ut Plebiscita omnes Quirites tenerent' (resolutions of the Plebs should be binding on all the citizens). The probable nature of this law has been discussed already;¹ the earlier Valerio-Horatian Law had forced the Consul to bring Plebiscita before the Senate as a preliminary to submitting them to the Comitia Centuriata; the Publilian Law abolished this intermediate stage altogether and provided that Plebiscita should go straight to the Assembly of Centuries. It thus brought the Plebeian assembly one step nearer complete independence.²

2. The Patres, that is the Patrician section of the Senate, must for the future give their assent *beforehand* to all laws submitted to the centuries. This law then took away the last weapon left in the hands of the Patricians; hitherto this small body of the old politically privileged class had been able by the refusal of their 'Auctoritas' (sanction)

Increased
power
of the
people.

The
Laws of
Publilius
Philo.
339 B.C.
I. Con-
cerning
Plebiscita.

II. Con-
cerning the
Patrum
Auctoritas.

¹ p. 87.

² Liv. viii. 12. 14.

to reject any law of the Centuriate assembly. It is clear that this was a dangerous power, though doubtless the Patricians used it with discretion, and were able to avoid provoking a contest by any unnecessary use of it when opinion was too strong against them. The abolition of this power was the natural consequence of the political annihilation of the Patriciate. The assent of the Patres had now to be given *before* the law was passed, that is between the day on which the law was promulgated and that on which it was submitted to the votes of the people. But here a difficulty arises—the Patrum Auctoritas after this law is regarded as a mere formality, a survival of the old Patrician supremacy that had no practical importance; it had to be given as a formality before the passing of the law. Now the law was already promulgated; its terms were known to the Patricians as well as to everyone else. How then was the preliminary grant of the Patrum Auctoritas a mere formality? For since they knew the contents of the law they could cancel it, if they objected to it, before it was put to the vote, just as effectively as they had previously been able to do *after* the law was passed. Unless some restrictions already existed to the exercise of the Patrum Auctoritas, it was just as powerful a weapon in the hands of the Patricians now as it had always been. It seems probable that the Patrum Auctoritas had already changed; originally the Patres no doubt had the right of refusing their consent to any law or election of which they disapproved on any grounds whatever; but in course of time it became more or less formal (just as the Lex Curiata de Imperio did), and was held to be concerned not with the *subject matter* of a law but with the *formalities*; that is to say the Patrician convention became the guardian of the religious ceremonies without which no proceeding of the Comitia was valid; they still had to give their consent to any measure or election of the assembly, and could of course withhold it; they did so however not because the *contents* of the law displeased them, or because the officers elected were hostile to their order, but on the ground of some *flaw in the formalities*.

Of course their power could be abused for political ends. An unpleasant law could be made invalid on the ground of a formal flaw, or an unfavourable election be revoked on the same grounds. But when the Publilian Law made the *Patrum Auctoritas* preliminary to the passing of a law the power of the Patrician convention disappeared, for they could not refuse their consent on the ground of breach of formalities, when the law had not been brought into the assembly, and thus as far as legislation was concerned the *Patrum Auctoritas* lost all force, and the *Comitia* was rid of a check which was a standing danger to its independence, and which lay in the hands of a small section of the citizens whose political privileges had now ceased to exist.

3. Henceforth one Censor must be Plebeian. This was the natural extension of the policy which led to the regulation concerning the Consulship; the Plebeians intended to stand on the same footing as the Patricians in every branch of the State administration. The only office now remaining to the Patricians was the Praetorship, and it is significant that in 337 B.C. *Publius Philo* himself was the first Plebeian Praetor. We may perhaps assume from this that the law by which the Praetorship also was opened to Plebeians owed its origin to a law passed by Philo at this time.

From 340 B.C. to 287 B.C. the nobility was less exclusive than in the preceding twenty years; a larger number of new families appear in the Consular lists, the old Patrician nobility disappears altogether, and its place is taken by a more extensive Patricio-Plebeian nobility of office, the entrance to the nobility being through the Consulship. Thus the old Patrician nobility of birth joined itself to the new Plebeian nobility, the germs of which already existed in the Plebeian senatorial families, the result being an aristocracy representing wealth. The change was not a great one, for the rich Plebeians had long been closely united to the Patricians by community of interest; but they now gained a share in the outward dignity which the tenure of office bestowed, and a participation in the '*Jus Imaginum*'¹ to which the old aristocracy had clung so obstinately. The

III. Concerning the Censorship.

New nobility of office.

¹ p. 97.

old division had been between the Patricians as a privilege and the Plebeians as a non-privileged order; this distinction had practically disappeared, for Patrician and Plebeian were now politically on the same level, and the new aristocracy stood opposed not to the Plebs as such, but to the common people, the non-noble and the poor, the most important section in this opposition party being the small farmer. Thus already there were visible the germs of the new aristocratic and democratic parties by whom the struggle of later times was to be fought out.

Increase of
general
prosperity. For the most part this period was one of greater prosperity. Rome had ceased to be troubled with border wars; the lands outside the walls were no longer ravaged by sudden incursions of Volscians and Aequians. The struggle with the Latins ended in the easy triumph of Rome, and the year 338 B.C. marks the rise of a more flourishing farmer class which was due to the policy pursued by the government on the dissolution of the Latin League. Doubtless the governing class might have done far more for the poorer citizens; the new aristocracy only reproduced the faults of the old in a modified degree. But the land assignment and extensive Latin colonies founded during these years not only helped to maintain the small Roman farmer and ameliorate his position, but afforded an outlet for the proletariat. In 332 B.C. two new tribes were formed by extensive allotments of conquered land; two more were added in 318 B.C.; and no less than 14,000 colonists were sent out in 303 B.C. and 302 B.C.¹ In spite of occasional reverses, the Samnite wars went in favour of Rome; the soldiers gained extensive booty, the citizens were benefited by allotments and colonies, the rich men and capitalists by an extended opportunity of occupying new public land that was not allotted, and increasing the flocks and herds maintained on the pasture land² in defiance of the dead letter of the Licinian Law. On the

¹ 6000 to Alba Fucens, 4000 to Sora, 4000 to Carsioli.

² Liv. x. 13. 14 of 298 B.C. 'Eo anno plerisque dies dicta ab aedilibus, quia plus quam quod lege finitum erat agri possiderent.' This shows how extensively the Licinian Law was violated, and how sporadic were the efforts to carry it out.

whole the Roman farmer class had probably never been in a more flourishing condition than during the years 340 B.C. to 300 B.C.

The political struggle of this period was two-fold—that of the Plebeians against the Patricians for admission to the remaining offices, and, what was more important, the struggle of the non-noble Plebeians to break down the exclusive barrier of the aristocracy. Both of these tendencies are clearly visible in the agitations of 342 B.C. and 339 B.C. Meanwhile the Government was striving to keep the prizes of the State in as few hands as possible, and this policy was the cause of the introduction of an entirely new institution—the Promagistracy.¹ Q. Publilius Philo was Consul in 327 B.C., and was engaged in the war against Neapolis; other extensive operations were in prospect against the Samnites, and the Greek city was on the point of submitting. In fact it became clear that the usual system of carrying on military operations with only two generals at the disposal of the State was inadequate; the aristocracy were unwilling to make any innovation on the system of annually changing magistrates, and at the same time were desirous to keep the supreme office of Rome in as few hands as possible; they therefore avoided the necessity of creating another colleague to the Consuls by the following expedient: a law was carried to the effect that Pubilius Philo after his Consulship had expired should continue his operations 'pro consule' (in the place of a Consul) till he had finished the war with the Greeks. That is to say, Philo was to hold exactly the same military Imperium as if he had been Consul, though he had laid down his Consulship. This was the first example of those Promagistracies, which afterwards became so important a feature in the Roman system of government. It is further noteworthy that this appointment was conferred by the *people*; and according to one account, the proposal was made by a Tribune. Now the object of the innovation can hardly be in doubt; it was a device of the aristocracy to prevent any increase in the supreme executive college, and the fact that it was introduced by a Tribune, shows how entirely the position of

¹ Liv. viii. 23. 12.

those officials had changed, and how useful they were found as an instrument of government in the hands of the new aristocracy.

The greatest political events of this period were the passing of the Ovinian Law and the Censorship of Appius Claudius. The latter fell in 312 B.C., and it is generally thought that the Ovinian Law preceded this by a few years, or else was connected with Publius Philo.

The
Ovinian
Law.
314 B.C. ?

Everything connected with the Ovinian law is exceedingly uncertain; it arose in the following circumstances. The Licinian Law had established the Plebeians in the supreme magistracy; they could rely on the Comitia to help them to maintain this right; their chief danger lay in the Senate; they had no legal right of entry, and the rising power of this body in almost every branch of administration rendered a fair share in its operations a political necessity for the Plebeians. There can be little doubt that in 367 B.C. the Senate contained a very large majority of Patricians, for the Plebeians had held so few places among the Military Tribunes that even if the practice of admitting them to the Senate at the expiry of their office universally obtained, the number of Plebeians admitted was insignificant. After 367 B.C. the position of the Plebeians in this respect was improved, for in all probability not only the Plebeian Consuls but also the Plebeian Curule Aediles had in practice a claim to consideration when the gaps in the Senate were being filled. But it has already been shown¹ that the number of Plebeians who gained the Consulship in the first twenty-eight years was very small. What happened in the case of the Aediles is uncertain, but even if ex-Consuls were held to have in custom a distinct claim to a place, we may perhaps assume that the magistrate who constituted the Senate was allowed greater freedom in admitting or excluding ex-Aediles; while the ex-Praetors and most of the ex-Censors, who ranked above the Aediles, were Patricians. After 342 B.C. there was always a Plebeian Consul, but it seemed advisable to impose some legal checks on the freedom of selection which had hitherto belonged to the Consul, and this was attained by the Ovinian Law. Unfortunately our

¹ p. 119.

the old informal manner from year to year; it became quinquennial instead of annual, and came to hold the chief place among the functions of an important magistrate. This change had the further result of removing the 'Lectio Senatus' from the influence of the mere passing politics of the hour; it was undertaken at intervals of four years by a magistrate who had no part in the ordinary party questions and legislative struggles of the day, who was invested with a high moral authority, and was regarded as a competent judge of a citizen's moral worth and fitness to hold a place in the Senate. The Consul had the power of removing any Senator from the roll, or refusing admission to any ex-magistrate who might be considered qualified on general grounds; the Censor was compelled to formulate in writing his reasons for taking any such step, and this formed a great check on his power; he must have strong grounds for such a course, grounds which would bear investigation; and thus the Senate was carefully protected against arbitrary acts on the part of the Censor. Not only then did this law secure the Plebeians an adequate representation in the Senate, but it immensely strengthened the Senate itself. It increased its influence by making it an assembly of ex-magistrates thoroughly acquainted with every branch of administration; it gave it a definite organisation subject to revision at stated intervals; it freed it from consular control and left it in the hands of two magistrates who regarded the 'Lectio Senatus' as the most honourable of their duties, and were determined to uphold to the best of their power the prestige of the body with which they were so closely connected. It might happen of course that the Censorship would fall into the hands of someone who had democratic aims, and who would use his powers against the aristocracy; but instances of this are rare, and naturally so. The work of the Censors was hardly political in the ordinary sense of the word; the reformers and opponents of the aristocracy generally aimed at securing the Tribune or Consulship and effecting their aims by legislation; the Censorship did not seem to offer any great opportunities for attacking the aristocracy; its chief work was the preparation of the budget and citizen lists, the filling of

Results of
the Lex
Ovinia.

the Senate and the centuries of Equites,¹ and much elaborate financial work besides. So the Censorship was for the most part left in the hands of the aristocracy, who used it to secure their privileges and guard the Senate against the entrance of any anti-aristocratic section.

The
Censorship
of Appius
Claudius,
312 B.C.

The first attempt to attack the existing constitution by means of the Censorship was made as early as 312 B.C. by Appius Claudius Caecus. He was not the leader of a party hostile to the Government; he was simply a Roman Patrician of marked individuality with the ideas of an advanced reformer who he endeavoured to carry out in the face of Patrician opposition, and in defiance of the limits which custom had set upon the exercise of Censorial power. It is a curious fact that Appius Claudius after his Censorship appears only once again on the stage in an important character, when as an old man he secured the rejection of the terms offered by Pyrrhus to the Senate; it would seem that in his Censorship he attempted to carry out a policy which found only temporary sympathisers, which was purely personal, and intended to secure for him an ascendancy in the State which was incompatible with the position of the aristocracy; that after the failure of this policy he sank back to the level of the ordinary Patrician Senator and was content to relax his opposition to the governing party. The tales told of his later career, his bitter opposition to the Ogulnian Law of 300 B.C., his refusal on one occasion, when, as interrex, he presided at the election to receive votes for the Plebeian candidates, cannot be seriously regarded. Livy pictures him as a violent aristocrat carrying out the traditional policy of the family, hostility to the Plebs, and ignores all the democratic measures of his Censorship. This is entirely a mistaken view, and the misrepresentation of the real character and policy of the Claudian family is no doubt due to the intentional falsehood of one of the early annalists, possibly Fabius Pictor himself, for the Fabii and Claudii were often hostile. Appius Claudius the Censor of 312 B.C. was no more a violent partisan of the new aristocracy than Appius Claudius the Decemvir had been the representative of the old Patricians. Both o

¹ p. 221.

them were violent reformers, and their methods were not unlike; they both showed an entire disregard for the limits which custom had set to their magistracy, and they both aimed at personal supremacy in the State; the Appius Claudius of 312 B.C. was exactly the 'political heir' of his great-great-grandfather the Decemvir. The reasons why our accounts of this important Censorship are so scanty and unsatisfactory are that the falsification of his character dated from early times; that the Roman historian being familiar chiefly with the portrait of a violent aristocrat could not reconcile with this his anti-aristocratic reforms; and further, that his measures were soon cancelled, and his chief claims to the memory of posterity were the great road which he caused to be made and his final appearance in the Senate as the representative of all that was best in Roman patriotism.

The measures of Appius were chiefly marked by a contempt for all established customs; we are told that he spent large sums of money on the road which he called after his own name (a thing hitherto unknown) without the sanction of the Senate; that he neglected to remove from the roll of the Senate and Equestrian centuries men who were notoriously of disreputable character. Both these proceedings are marked by a contempt for the traditional eminence of the Senate which was not exceeded by Julius Caesar; but this feature is still more apparent in his dealings with the Freedmen ('Libertini'). This was a class that now for the first time became politically prominent. The old clients as a political class gradually died out; the family or clan as the unit of the State was gradually supplanted by the individual, and with the disappearance of all political differences between the Patricians and Plebeians, and the extinction of the old nobility of birth, the importance of the clan died out, and the hereditary bonds between the noble families and their dependents were no longer so strictly maintained from generation to generation. Emancipation of slaves was still extensively practised, and the slave when he was set free became a Libertinus (freedman) and stood to his patron in just the same relation as the clients of earlier times.¹ But though

Claudius
and the
Non-free
holders

The
Libertini.

¹ p. 17.

cognition. But the admission of the *Libertini* and *Prætorii* to an absolute equality with the freeborn freehold by inclusion in the Rustic Tribes, with which the dwell in the city had no concern, was an innovation which struck at the very root of the Roman conception of citizenship.

His
method.

In his dealings with the assemblies and the reorganisation of the citizenship just as in his dealings with the Senate and Equites, Appius seems to have been animated chiefly by feeling of contempt for all established customs and ideas. He was like Appius the Decemvir a bold innovator, quite free from the political ideas and prejudices of his age. We can hardly imagine that he carried through his reform without opposition; but the Tribunician veto was not available against the Censors. When the eighteen months at the expiration of which the Censors had to lay down their powers were over, his colleague resigned; but Appius in defiance of the Aemilian Law continued to hold office. The Consuls of 311 B.C. had already announced that they would ignore his list of Senators, and they did so, but on what legal grounds we cannot say, unless after the retirement of the Censors at the end of their eighteen months the Consul received the temporary supervision of the list till the new Censors were appointed. But the citizen lists remained untouched, and so great was the popularity which Appius had gained, and so powerful the support of his new citizenship that he was able to hold his own, and secure Tribunician intervention in his favour when a Tribune attacked him. His excuse for continuing to hold the Censorship probably lay in the fact that his great public works, the Appian Road and Aqueduct, were not yet finished, and he was unwilling to leave them to the mercy of the Consuls who had already declared their hostility to him. But the strength of his position for the time is most clearly shown by the fact that the succeeding Censors, a Valerius and a Junius, who belonged to the Government party, did not alter the citizen lists, and in 307 B.C. Appius himself was elected Consul. In 304 B.C., however, the reaction set in the introduction of the landless Romans into the Rustic Tribes was an anomaly; the inhabitants of the city had

His
scheme
changed
by Fabius

no political interests in common with the country farmers, and the arrangement was irreconcilable with the idea of local connexion which lay at the bottom of the Tribal organisation. Fabius Rullianus the Censor of 304 B.C. partially undid the work of Appius; he could not disfranchise all the new members of the Tribes, but he removed all *non-freeholders*, free-born and freedmen alike, into the four City Tribes,¹ thus preserving to the landed interest that preponderance which had always belonged to it. Henceforth *four* votes in the Comitia Tributa belonged to the non-landholders; the possession of land ceased to be the one qualification for holding the 'civitas.'

In 296 B.C. Appius secured the election of his clerk Flavius Flavius as Curule Aedile. as curule Aedile, and through him he struck another blow at the party of privilege. The knowledge of legal practice and formalities was still a possession of the Patricians, for they alone were eligible to the Pontificate, and it was the Pontiffs who had the arrangement of the Roman Calendar, and determined on what days the courts should sit (these days being called 'Dies Fasti,' and the remainder 'Dies Nefasti'); this list of court-days was read out on the Nones of each month when the country people were in Rome. Flavius, under the influence of Appius, now published the calendar, and also an account of the 'Legis Actiones,' the formulae and proceedings applicable to the various kinds of legal actions. Hitherto all this knowledge had belonged to the Pontiffs, and the Pontifex Maximus (the chief Pontiff) was not only the high priest but the chief lawyer in Rome; the ordinary citizen who was desirous of bringing on an action had to get advice from the Pontiffs as to when he could come into court and exactly in what terms his plaint was to be lodged; for the early Roman legal procedure insisted with great strictness on the correct application of certain stereotyped formulae, the slightest divergence from the exact wording being sufficient to cost a man his suit. The result of Flavius' publication was the severance of law and religion; a class of lawyers began to grow up which was quite distinct from the priestly colleges. Of course the ordinary citizen

¹ The Libertini who were freeholders were left as enrolled by Claudius.

could not by any means proceed on his own knowledge; he still needed lawyers' advice, but the knowledge of the Roman formal procedure was taken out of the hands of a small class and given to an entirely new profession.

The
Ogulnian
Law.
300 B.C.

The Patricians had now lost all their exclusive privileges but one; they still practically had complete control of the State religion, for the Plebeians had only gained admission to one of the three great priestly colleges, and that the least important, the 'Decemviri sacris faciundis.' In 300 B.C. two Tribunes, Q. and C. Ogulnius, brought in a law by which the Plebeians were to be eligible to the great priesthoods. The Pontiffs were five in number beside the Pontifex Maximus, the President of the College;¹ they were now increased to eight, of whom one half must be Plebeians, the presidency of the college being open to either order, though it was not till 252 B.C. that the first Plebeian Pontifex Maximus was appointed. The number of the Augurs was raised from six to nine, five places being kept for Plebeians. The only posts now left exclusively to the Patricians were the Rex Sacrorum, the three greater Flamens (priests of Jupiter, Mars and Quirinus) and the Salii, of whom there were two colleges of great antiquity, the one attached to Mars and the other to Quirinus. These privileges were left to the Patricians, for they had no practical importance; they were merely survivals of an older order of things, and of no political value. Such was not the case with the greater colleges to which the Plebeians had gained an entry.

Religion
and admin-
istration.

Religion was closely connected with the administration of Rome, and when the Plebeians had been declared eligible for all executive posts, their admission to those religious offices which had great influence in political matters was a necessity. The idea of a separate caste of priests was quite foreign to Rome, and the Patricians' claim to exclusive administration of State religion even in early times was never regarded seriously by their opponents. The dividing line between the magistrate and priest in Rome was never by any means distinct; the man who was fit to administer the affairs of the community, and lead its armies, was equally

¹ p. 45.

fit to represent it in its relations with the gods. Thus the Consul had extensive religious duties to perform; the 'auspicia' were always consulted by the Roman generals and magistrates, not by any specially qualified caste of priests; and conversely the great colleges exercised an important political influence. The Pontiffs were above all others regarded as the public priests of the Roman people; they were the interpreters of signs and portents; they decided when, and with what sacrifices, expiation should be offered by the State when the favour of the gods seemed to be alienated; they protected the State from contamination by the admission of foreign rites of which they did not approve; they were the repositories to a great extent of formal law and procedure even after the law of Flavius; and above all they arranged the Roman calendar; they decided which days should be Fasti and which Nefasti, that is, which days should be available for the business of the law courts and assemblies, and which should be kept for holidays and sacred rites. It is clear that this gave opportunities for political manoeuvring; for example, an unwelcome measure which was to come before the Comitia on a certain date might be postponed to a more favourable occasion by declaring the day 'Nefastus.' This power was lessened by the publication of the calendar by Flavius; but this calendar only disclosed the dates of the *fixed* festivals ('feriae stativae'); the magistrates could still, after consultation with the Pontiffs, render the day fixed for the assembly 'nefastus' by setting down for that day one of the movable feasts or extraordinary festivals ('feriae conceptivae' or 'imperativae'). The Augurs were the depositaries of Divinatio, that is, the interpretation of auspicia (auguries). They performed the 'inauguratio' of all places where the auspices were to be taken, or where an assembly was to be held for which the auspices were necessary; there they marked out the region of the heavens (Templum) which was to be watched for the appearance of any sign from the gods. It was in the performance of this duty that their political influence consisted; by announcing the appearance of any unfavourable sign the augur could stop the procedure of an

assembly, or nullify any business that had been transacted there by afterwards finding a flaw in the auspices. These powers now ceased to be exercised entirely by the Patricians; they can indeed hardly have expected to retain these religious functions, and we may reject Livy's account of the struggles that attended the passing of the law, in which Appius Claudius appeared at the head of the Patrician party and Decius Mus as champion of the Plebs. The Patriciate as a political institution had fallen so far into the background during the last fifty years that there can have been no chance of a successful opposition to the demand of the Plebeians for admission to the priestly colleges.

Valerian
and
Maenian
Laws.

About the same time two other laws were passed: a third Valerian Law of appeal¹ (300 B.C.) of whose nature we know nothing, and a Maenian Law which enacted that the *Patrum Auctoritas* (the consent of the Patrician members of the Senate), which had been made preliminary by the Publilian Law of 339 B.C. for legislation in the assemblies, should be preliminary in elections as well. Of the proposer of this law we know nothing; the tradition that it owed its origin to the refusal of Appius Claudius as *Interrex* to receive votes for a Plebeian candidate in the Consular election, over which he was presiding, is untrustworthy. The object of the law is clear; it extended the *Lex Publilia*; it aimed at further securing the independence of the assemblies by removing a possible check on the freedom of election in the *Comitia*. The *Patrum Auctoritas* had probably already become obsolete in practice; even now it did not entirely disappear; it still continued as a formality to the latest years of the Republic, a memento like the *Rex Sacrorum* and *Interrex* of the old days of complete Patrician supremacy.

Renewal of
economic
trouble.

The year 300 B.C. marked the beginning of another period of depression for Rome; the city was hard pressed by the union of Samnites, Gauls and Etruscans against their common enemy. The small landowners again suffered severely; the duration of the war and constant service, which kept them away from their farms, and the reimposition of the *Tributum*, which was none the less burdensome at the time because it

¹ Liv. x. 9. 3.

was regarded as a loan and afterwards paid back, caused a renewal of the old trouble about debt. The final result was a secession to the Janiculum in 287 B.C., but the circumstances which led to it are uncertain. We are told that the discontent began at the end of the Samnite war in 290 B.C., when Curius Dentatus endeavoured to relieve the distress by an Agrarian law, and culminated in a proposal of the Tribunes in 287 B.C. for a cancelling of debt.¹ The creditors, that is the richer Plebeians and Patricians, of course opposed the proposal, and they were joined by many of the well-to-do and respectable citizens who saw the danger of such a violent course.

The result was another secession which was ended by Hortensian Law 287 B.C. the Plebeian Dictator, Quintus Hortensius. No doubt some regulation affecting the debtors was passed, of which we know nothing; but the most important law was that which provided that resolutions passed by the Plebs in their Concilium (Plebiscita) should be as binding on the whole people as the laws passed by the populus in the Comitia (Leges);² that is to say, the Plebiscita became law for the whole Roman community directly they had been passed in the Plebeian assembly; they no longer needed to be passed as before by the Comitia Centuriata.³ The reason for the passing of such a law at this time is by no means clear, for we know nothing of the circumstances of the struggle. It may be conjectured, perhaps, that a proposal of a rather advanced nature for dealing with the question of debt had been carried as a Plebiscitum, but when it went before the Comitia Centuriata the advantage possessed in voting strength by the wealthy centuries procured its rejection. The result of the law is clear enough; the Plebs had now gained more than equality; not only were all offices of State thrown open to them, but their assembly, which had in its origin been an informal gathering with no existence in law, had come to be recognised as a sovereign assembly for legislation, side by side with the Comitia Centuriata and Comitia Tributa,

¹ Dio tells us the Tribunes proposed a *χρεῶν ἀποκοπή*.

² Gaius, i. 3. 'Ut plebiscita uniuersum populum tenerent.'

³ p. 87.

which included the whole citizen body, Patricians as well as Plebeians.

The Concilium Plebis being now on a level in power with the Comitia was placed formally on the same footing. A law was introduced 'ut nundinae fastae essent,' 'that the market days should be open for public business.' At first sight the object of this law is by no means clear. The Roman calendar is divided into Dies Fasti (business days) and Dies Nefasti (days on which no public business could be transacted.) Hitherto the Nundinae (market days), had been Nefastae; they had been regarded as public holidays; no Comitia could be held on those days, nor were the courts opened for judicial business. The Concilium Plebis, however not being a Comitia, was not under the same restrictions and the Plebs, who of course came to Rome in large numbers on market days, naturally were in the habit of holding their assembly on the Nundinae. Now the Dies Fasti were of two kinds, Dies Fasti Noncomitiales (business days on which the Comitia were *not* allowed to meet, and the courts always sat), and Dies Fasti Comitiales (days on which the Comitia met and the courts only sat if there happened to be no assembly); the Nundinae now ceased to be Dies Nefasti and were included among the Dies Fasti Noncomitiales; and the Concilium Plebis, being now on the same footing as the Comitia, was no longer allowed to meet on the Nundinae but had to assemble on the Dies comitiales. Further, the Nundinae having now become Dies Fasti Noncomitiales, the courts were open on these days, and this conduced greatly to the convenience of the small farmers from the country who only came to Rome on market days, and were able to get their cases heard then. Incidentally, too, this law told in favour of the aristocracy, for since the Concilium no longer met on market days, but on the days set aside for the Comitia generally, there was the less likelihood of the Plebeian assemblies interfering to any great extent in political affairs.

End of the
struggle
between
the orders.

The struggle between the Patricians and Plebeians which began in 495 B.C. had now come to an end; the Plebeians had triumphed; they had gained successively Legal, Social and Political Equality; they had advanced now one step further

and the assembled Plebeians were placed on an equality with the Populus of Rome. There could be no further strife between the orders, for the orders had politically ceased to exist; there was nothing now for the Plebeians to desire, there was nothing for the Patricians to withhold. The Tribunes, the Plebeian magistrates, had risen with their order; henceforth they cease to be merely magistrates of the Plebs, they become State magistrates, able to summon and address proposals to a body which possessed unlimited powers of legislation. The Plebis Concilium, which, now that the practical distinction between Patricians and Plebeians had vanished, probably soon came to include in practice the whole people, was supreme; and yet it will be seen that the result was not democratic; no great constitutional upheaval followed the passing of the Hortensian Law. The Republic had entered on its course under the government of a close aristocracy, which concentrated all the power of the State in its hands, and had its supremacy secured by the Patrum Auctoritas and the monopoly of the magistracies; one by one all its privileges are lost; the community asserts its sovereignty; it frees itself from all checks; and at last that section of the citizen body, whose political existence had hardly been recognised two hundred years before, attains to a position which legally involves unlimited power. And yet the Government remains almost as much an aristocracy as it was when the Patricians were supreme; there is no unprivileged class to be treated with merciless severity; the citizens are no longer outraged and oppressed; their rights are respected and their sovereignty admitted; but their position is seldom asserted, and in every branch of administration the aristocratic Senate is supreme. The aristocracy had only changed its nature; it was no longer an aristocracy of birth, ruling in virtue of a position secured to it by law, and oppressing the non-privileged citizens outside its pale; it was an aristocracy of office, possessing no privileges in the eyes of the law, but ruling in virtue of a gradual usurpation, and securing its position by an outward show of respect for the position of the sovereign people. The strife between the orders was followed by a long period of internal quiet, during which fresh party distinctions came into

existence ; and the struggle that began one hundred and thirty years after the Hortensian Law was not that of a legally and politically inferior multitude against a ruling caste, but, in so far as political considerations were concerned, it was a rising of the legally sovereign people to win back by a revolution the powers that were rightly theirs, but which they had allowed the aristocracy to usurp gradually during more than a century of political calm.

CHAPTER VI

ROME AND ITALY

THE earliest territory of Rome was merely a small strip of land extending along both banks of the Tiber to the sea; the nearest neighbours of the city were the Etruscans on the north, and the Latins on the south, and at a very early date Rome seems to have gained a hegemony over the Latins. The old Latin communities were bound together in a confederation which centered round the ancient city of Alba, the head of the League and the religious centre of the neighbouring communities. Of the circumstances of the struggle nothing is known; but tradition insists very strongly on the importance of this early victory, for it assured to Rome the position, which Alba itself had previously held, of the leading state in Latium, with the right of presiding at the great Latin festival on the Alban mount. The procedure of Rome after this conquest is worthy of note; Rome at a very early time learnt the lesson of utilising her victories; the conquered Albans were not deprived of their rights or forced to submit to a humiliating peace; nor were they allowed to remain politically independent, and constitute a continual danger to the Romans; they were entirely absorbed in the Roman community. Most of them no doubt became clients of the king, and helped to a great extent to form the Plebs, while the leading families were admitted to the Roman Patriciate; thus did Rome at the same time remove a powerful rival and increase her own resources. It is noteworthy that Rome in dealing with the kindred Latins in early times showed none of that intense exclusiveness which induced so many of the ancient city states to set up barriers to the acquisition of the citizenship; as long as

Rome and
the early
Latins.

Rome wanted a larger citizen-body, so long as the Roman 'Civitas' freely bestowed; it was only when the Romans felt their position well assured, and their strength sufficient, that they restricted jealously the extension of their citizenship.

The
Aequum
Foedus—
Rights of
the allies.

The original relation between Rome and the Latins was an equal alliance between equal allies; within the limits of the League there was absolute reciprocity in all private rights; the citizen of one community had full commercial rights in any other community, and legal right of inter-marriage, co-extensive with the limits of the League, *i.e.*, they had unrestricted '*Commercium*' and '*Conubium*'; moreover absolute freedom was allowed to any member of one of the confederate cities to settle and acquire political rights, if he chose to relinquish his citizenship in his former home (for it was a maxim of Roman law that no one could be a citizen of two communities at one and the same time), in any other city of the League; and here again, Rome being the most powerful, and pre-eminently commercial state, naturally reaped the greatest advantage from the large number of Latins who either settled there and gained the citizenship, or made their homes there as protected aliens. In all respects the alliance was equal—Rome on the one side, and the Latin League on the other, each furnished equal contingents to the army, and received an equal share of the spoil; the Latins joined in the settlement of conquered places, and these settlements were called

The Latin
Colonies.

Latin colonies (*Coloniae Latinae*), and were received into the Latin League as members, on an equality with the old Latin cities, possessing a seat and vote in the Latin festival. This form of colonisation existed side by side with a still earlier type, the burgess colonies, '*coloniae civium Romanorum*,' the first of which was Ostia, dating from prehistoric times.

The
Roman
Colonies.

It became desirable to establish Roman power firmly at the mouth of the Tiber, and the commercial importance of this position caused a community to grow up rapidly. It was not the policy of the Romans to found colonies like those of the Greeks, bound to the mother city only by ties of sentiment, and likely to become in the future dangerous

political and commercial rivals. The Romans founded a colony at Ostia, but the colony had no political existence of its own; it remained legally just as much part of Rome as if it had been a district of the city; the Roman colonists continued to be Roman citizens, to vote in the Roman assemblies, and to exercise all the political privileges which had belonged to them while they lived at Rome; they were still liable to military service and all the burdens of the state; they had merely changed their residence.

The actual history of the Latin League begins with the treaty made between Rome and the Latins at the instigation of Spurius Cassius in 493 B.C., to which the adhesion of the Hernicans was gained in 486 B.C. This was an 'Aequum Foedus,' and no doubt revived the relations which had previously existed between Rome and the Latins, but which had been broken off in the confusion following on the expulsion of the kings and the conquest of Rome by the Etruscans. The Hernicans were admitted on the same terms, the stipulation being made that the booty was now to be divided into three equal shares. It was to the loyal assistance of these allies that Rome owed her success against the Volscians, Aequians and Etruscans, and the friendly relations with the Latins were only broken temporarily by the invasion of the Gauls. The alliance was soon renewed, but in 385 B.C. the Latin League was permanently closed.

The Treaty
of Spurius
Cassius.

It was in the nature of things unlikely that the absolute equality between the leading community and the League should continue to exist unimpaired; Rome became more and more prominent; probably the practice of a Roman and Latin general commanding the allied troops in alternate years was the first sign of equality to disappear, and with the command of the army the making of treaties and declaration of war also passed to Rome. But the private rights of the members of the League remained unimpaired; the citizen of any community could acquire property, receive and dispose under a testament, or enter into any commercial relations without restriction in any allied community.

Disappearance of
Equality.

Change in
the Status
of the
Latin
Colonies.

In the early days of the League the Romans had marked the extension of their powers by planting federal fortresses, the settlers being composed of Latins and Romans, such as Signia (495), Velitrae (494), Cora and Norba (492); the object of these was purely military, to ensure the Roman influence as the arms of the State advanced. The last of the old Latin colonies was Satricum, founded in 385 B.C. Hitherto the Latin colonies had been incorporated in the Latin League; the object of Rome had been to strengthen her allies by the inclusion of these new communities. The year 385 B.C. saw a change in policy, the first avowed change which marked the rising supremacy of Rome. In spite of the disasters of the Gallic invasion Rome felt herself fairly secure; she now began to aim at preventing any dangerous increase in the power of the Latin League, and it was definitely closed. It embraced altogether, old independent Latin cities together with the joint colonies, forty-seven cities. The original Latin confederacy presided over by Alba comprised thirty communities participating in the old Latin festival and having a vote on federal affairs; this assembly had long ceased to have any political importance, but the traditional number of thirty was still maintained. All the forty-seven cities belonging to the League participated in the festival, but only thirty of them had votes. The Romans still continued to found Latin colonies, not necessarily composed exclusively of Latins, nor founded in Latium, called 'Coloniae Novae,' or simply 'Coloniae Latinae'; they were assimilated to the position held by the earlier members of the Latin League, and formed the most important part of the 'Latin allies.' These colonies, the first of which was Setia (382), were dealt with one by one; they were placed individually in definite relations to Rome, and the same principle was applied to them all, *but they had no relations one with another*; they all had 'Commercium' and 'Conubium' with Rome, but had no private rights in the other Latin cities, *e.g.*—a colonist of Sutrium might have commercial dealings with Rome and acquire land there, but he could have none with Nepete. This is the first trace of that policy of Isolation which became such

a prominent feature of Rome's dealings with her allies; they were all brought into close relations with Rome, but everything was done to prevent combination among them.

The gradual disappearance of the danger which had threatened Rome in earlier days from the Volscians and Aequians caused greater intolerance in the treatment of the allies. Acts of glaring injustice were not wanting, the most scandalous example being the treatment of Ardea in 442 B.C. The Romans when called in to decide a border dispute between Ardea and Aricia in 446 B.C. took possession of the disputed land, and when this treatment caused political dissensions in Ardea, and one party wished to join the Volscians against Rome, they quietly sent out a body of Roman citizens to the town to take over the lands of the anti-Roman party, and Ardea became a colony. The growing oppressiveness of the Roman hegemony is shown too by the frequent revolts, Lanuvium (383), Praeneste (382), Tusculum (381), and some of the Latin colonies such as Velitrae and Circeii. But all these outbreaks were crushed, and Tusculum was incorporated with Rome; its citizens were forced to accept the Roman franchise; and this is the first instance of a method of treatment which afterwards was not uncommon. The early treatment of Alba was not analogous to this; the population of Alba had been incorporated into Rome; the inhabitants of Tusculum retained their city, their walls and municipal independence, and were yet enrolled in a Roman tribe.

The revolt of the Hernicans caused another breach in the alliances, but on their subjection in 358 B.C. the old Leagues were renewed; eighteen years later came the final crisis, when the Latin League broke with Rome and the great Latin war sealed the doom of the Latins. Relations between Rome and Latium had been uncertain since the Gallic invasion; the ascendancy of Rome was becoming more open, and the Latins were palpably sinking into the position of subjects. No alteration had been made in the terms of the alliance, but the change is shown by the events of 341 B.C. when the Romans made a treaty with the Samnites without consulting their allies. Tradition tells of a proposal made

Increased
Harshness
of the
Roman
hegemony.

The Latin
War,
340 B.C.

by the Latins according to which Rome and the Latins were to form a federal state governed by a common senate and common magistrates; whether such a proposal ever was made we do not know; there was nothing unfair in it, and in earlier years such a federation might have been accomplished; but in the fourth century the policy of Rome tended in an entirely opposite direction. The Romans now recognised clearly their own position; by the aid of the Latin League they had become supreme in Southern Etruria and Latium; they were ready now to try conclusions with the Samnites, and settle once for all the supremacy of Italy. Of late years the policy of Rome had undergone a change. Originally the city on the Tiber had bestowed freely the gift of its citizenship; its object had been to increase the strength of the burgess body; and while strengthening itself it had endeavoured to strengthen the Latin League as well, and hence all the Latin colonies were enrolled in the old League. But in 385 B.C. this policy had been abandoned; and now in 340 B.C. the Romans probably welcomed the struggle with the Latins; it came at a time when the Samnite wars had hardly begun; the Romans had their hands free; they now seized the opportunity for putting the Latins on a lower footing, and removing finally all possible dangers from a strong confederacy standing on the nominal footing of equal allies.

The old
confeder-
acy broken
up.

The Latin war was short; in two years the victory of Rome was complete. Rome would no longer tolerate any political confederacies, and though the old Latin League was allowed still to exist formally as a religious association, its political importance disappeared. The principle which Rome had applied to all the Latin colonies founded since 385 B.C., the principle of isolation, was now extended to all the Latins, the old cities as well as the colonies, and their relations with Rome were determined by separate treaties, most of which were on the same lines, and the rights granted under these treaties came to be known as 'Latinitas' or 'Jus Latii.' The members of the League were treated individually according to their share or attitude in the war:

Jus Latii.

most of them forfeited a certain amount of territory, for in 332 B.C. two new Tribes were formed partly owing to the assignation of Latin land, and partly for the admission of the Latins to whom the franchise had been granted; some of them (*e.g.*—Lanuvium, Pedum, Nomentum) were forced to become Roman citizens on an inferior footing, liable to all the burdens of the citizenship, and possessing all the private but none of the public rights attaching to it; that is to say they became 'cives sine suffragio.' The Campanians, for the people of Capua had joined the Latins while the Equites had remained loyal, were punished with equal severity; Fundi, Formiae, Capua and Cumae received the 'civitas sine suffragio,' the Equites of Campania being rewarded with the full citizenship.

From this time the power of Rome spread rapidly; in 329 B.C. Privernum, the last Latin town to contest the position of Rome, was taken, and in 318 B.C. the distribution of land belonging to the Privernates (who had become 'cives sine suffragio') led to the formation of two more tribes. Colonies were being pushed forward on all sides; the Coast was secured by a burgess colony at Antium in 338 B.C. and Tarracina in 329 B.C., while the newly conquered districts inland were secured by Latin colonies at Cales in 334 B.C. and Fregellae in 328 B.C. Rapid advance of Rome.

Thus Rome had completed the conquest of Campania before the Samnites interfered; the struggle that followed was long and severe; but the Romans contrived to prevent the formation of a regular Italian confederacy against them by generally winning the support of the Italian Aristocracy. Such was the case with the Lucanians, whose adhesion to the Roman cause was important, for it kept the Tarentines and Southern Italians from interfering with effect, and left Rome free to bring all her might against the Samnites. By 314 B.C. the initial successes of the Samnites had been counteracted; Campania and Apulia were in the hands of the Romans; Latin colonies were founded at Luceria, Saticula, Pontiae, Interamna, Suessa Aurunca and Casinum, and the Censor Appius Claudius in 312 B.C. made the great Appian Road from Rome to Capua. Roads and Colonies. Everywhere the same methods were used;

the conquered countries were opened up by military roads, held in subjection by Latin colonies, and the old independent communities either allied with Rome by a definite treaty or forced to enter on inferior terms into the burgess body of Rome. In 303 B.C. central Italy was secured by two great roads, the one from Rome in a north-easterly direction (later called the Flaminian Road), a colony being founded at Narnia, the termination of the road, the other in a south-easterly direction (later called the Valerian Road) to secure the land of the Marsians and Aequians, with colonies at Alba Fucens and Carsioli. These extensions were by no means viewed with equanimity by the inhabitants, for in 301 B.C. the Marsians attacked the new colony at Alba, but were defeated. The third Samnite war firmly riveted the fetters of Rome on Central Italy; the Appian Road was carried through Samnium to Apulia, and a great colony of 20,000 was planted at Venusia.

Conquest
of
Southern
Italy.

The war with Pyrrhus led to a vast extension of Roman power in Southern Italy; new colonies were planted everywhere, Paestum and Cosa in Lucania, Beneventum and Aesernia in Samnium. In the north Latin colonies were planted at Ariminum and Firmum against the Gauls, and a citizen colony at Novum Castrum (264) with the same object as the earlier citizen colony at Sena (283). The same principles were always followed: absorption into the Roman citizen body, or federation; in the former case the community lost its political existence and became a fragment of the Roman citizen body, in the latter case it retained its political independence, but was generally isolated as much as possible from the kindred communities. Before the beginning of the second Punic war this system extended from the extreme South to the new colonies on the Po.

Classifica-
tion of in-
habitants
of Italy.

The inhabitants of Italy fell into two classes:—

1. *Citizens* (*Cives*) who may be subdivided into
 - (1) *Cives Romani*, full citizens.
 - (2) *Cives sine suffragio*, citizens with no public rights.
2. *Allies* (*Socii*) who may be subdivided into
 - (1) *Coloniae Latinae*, Latin Colonies or Latins.
 - (2) *Civitates Foederatae*, Italian allies.

I. CITIZENS.

1. *Cives Romani*.—In 494 B.C. there were twenty-one tribes; Roman no new tribes were added till after 396 B.C. when the con- Citizens. quest of Veii nearly doubled the territory of Rome. In 387 B.C. four new tribes were added, two in 358 B.C., one of them, the Pomptine tribe, being formed from Volscian territory, two more in 332 B.C., two in 318 B.C. and two in 299 B.C. The last two tribes, bringing the total to thirty-five, were formed in 241 B.C., these being the Quirina and Velina, probably both from Sabine territory, the Sabines, who had received the 'civitas sine suffragio' in 290 B.C. having received the full citizenship in 268 B.C. After 241 B.C. if Roman citizens were established in any district of Italy they were not enrolled in new tribes, but added to the lists of those nearest to them.

Another class of 'cives Romani,' or full citizens, was formed by the Roman colonies. Of these the chief were Ostia, Antium (338), Tarracina (329), Minturnae and Sinuessa (296), Sena (283), Castrum Novum (264), Alsium (247), Fregene (245); it is to be noted that they were all on the coast. These colonies were not a very severe drain on the Roman citizen body; the number of citizens sent out was generally 300; they continued to be full citizens of Rome, and formed an aristocracy in the town closely attached to Rome. They were provided with lands at the expense of the old inhabitants who generally became 'cives sine suffragio.'

2. *Cives sine suffragio*.—The citizens without public rights Citizens without public rights. were a numerous class, continually increasing up to the time of the Punic wars. The towns which they inhabited were called by the general name of 'Municipia,' the communities of 'Municipes.' The oldest sense of this word *Municipes* was the inhabitant of a Latin town who was a *Municipes* at Rome, the word being probably derived from 'munia' (privileges or gifts), because these Latins had the right of coming to Rome and voting in one tribe, chosen by lot, in the *Comitia Tributa*. This meaning was soon supplanted by the later use of *Municipium* to signify a town in Italy

whose inhabitants were 'cives sine suffragio.' Such towns were Caere (351), many Latin towns after the Latin war such as Lanuvium, Velitrae, Pedum and Nomentum; Campanian towns such as Capua and Acerrae; also Formiae and Fundi, old towns of the Aurunci; Anagnia (306), Arpinum (303); the Sabine towns, Cures and Reate (290), which afterwards received the Jus Suffragii and became Cives Romani.¹

Municipia. There were two classes of Municipia:—

(a). Those which kept an independent municipal existence. They had their own Magistrates and a Council for the management of local affairs. Of course they had no power of entering into relations with other communities, or of coining money or making laws, for they were part of the citizen body of Rome. The inhabitants possessed the 'Jura Privata,' the 'Jus Commercii,' and 'Jus Conubii,' with Rome or any other municipium; they were assessed for the census of Rome; they were liable to military service, and paid the Tributum just like the full citizens; but they had not the public rights, the 'Jus Suffragii' and the 'Jus Honorum,' the right of voting and right of holding office.

(b). Those communities which lost their independent existence altogether; they had no Magistrates or Council of their own, but were governed by Magistrates sent out from Rome; such was Anagnia of which Livy² says the Romans took away its 'Concilia,' and its full right of marriage (conubium), and forbade it to have any Magistrates of its own except for the administration of religion. The loss of 'Conubium' is hardly intelligible, for it was always understood that the 'cives sine suffragio' enjoyed all the private rights of Roman citizens. Livy is probably confusing the punishment of the Anagnians with the rights of the Latin colonies to which conubium with one another was refused; the 'concilia' may be the assemblies in the separate states,

¹ The case of Tusculum is uncertain. Cic. calls it 'Municipiorum Antiquissimum,' which may mean it was the oldest community of 'Cives sine suffragio,' or simply that it was a very old provincial town. Festus includes it among the 'Cives sine suffragio.' Livy says that after 381 it received the 'civitas,' not necessarily, *full* 'civitas'; by 321 it was enrolled in a Tribe.

² Liv. ix. 43.

or possibly the confederations of several states which in all cases were broken up. In any case the vital point lies in the abolition of the local Magistrates. While those belonging to the above class were rated for the Census by their own Magistrates, these were rated by the Roman Censors; the names in both cases appeared in the same lists as the *Aerarii*—*i.e.*, those who were not enrolled in the tribes, or those who had been removed from the tribal lists in consequence of having incurred 'infamia' by some disgraceful act, or by the 'nota' (brand) of the Censors. This list of 'aerarii,' or politically disfranchised citizens, was also known by the name 'Tabulae Caeritum,' 'lists of the Caerites,' which seems to indicate that Caere was among these inferior municipia, and that being the first state treated in this way it gave its name to the whole class.

There was also a class of towns called 'Praefecturae'—Praefec-
turae. places where justice was administered by a Praefectus sent from Rome. These Prefects were appointed either by the people or by the Praetor, the latter being the regular course. Thus there were two different methods of procedure, and two kinds of Praefecturae:—

(a.) Those towns to which were sent the four Prefects elected by the people, viz.: Capua, Cumae, Casilinum, Volturnum, Puteoli, Acerrae, Suessula, Liternum, Atella and Calatia. These towns had four Prefects between them who were called 'Praefecti Capuam Cumas,' prefects for Capua and Cumae. They were all 'municipia,' but Volturnum, Puteoli and Liternum were made 'Coloniae' in 194 B.C.

(b.) Those towns for which a prefect was appointed every year by the Praetor, such as Fundi, Formiae, Anagnia, Reate, Arpinum, Caere, Casinum, and others. These were all communities of 'cives sine suffragio.' Several of the towns mentioned (*e.g.*—Fundi and Formiae) afterwards received the full franchise; but the old title seems to have been kept, and applied with no sense of inferiority, for we hear of Praefecturae even after the Social war; we find it applied even to a colony of full Roman citizens, Saturnia, and probably in later times it merely denoted a community, to which a Prefect was sent to superintend the laws and administer

justice; even in earlier times it does not follow that *all* the local Magistrates disappeared because a Roman Prefect was sent there, though in the lowest municipia that was probably the case. The most we can say is that the Praefecturae were originally communities of 'cives sine suffragio,' or full Roman citizens (*e.g.* Roman citizen colonies or towns to which the full 'civitas' had been given), who came, for purposes of jurisdiction, under the Praetor's imperium, and where, since it was physically impossible for the Praetor to exercise his jurisdiction, the laws were superintended and justice dispensed by a Roman Prefect representing the Praetor.

In later times there were two other kinds of places mentioned in the organisation of Italy (*v.* Lex Julia Municipalis), *Fora* and *Conciliabula*, which may be explained here.

Fora.

The *Fora* were commercial centres called into existence for purposes of trade when a new road was made, generally named after the magistrate to whom the road owed its existence, and situated about midway between Rome and the other end, *e.g.*—Forum Appii and Forum Flaminii; others afterwards came into existence which had no connection with any road, such as Forum Livii and Forum Sempronii in Gallia Cisalpina.

Conciliabula.

Conciliabula were the meeting places for Roman citizens in a scattered district; the oldest conciliabula were probably the meeting places of the rustic tribes. The distinction between the Forum and Conciliabulum lay in their origin; the former was created by the act of a Roman magistrate; the latter was a natural growth to meet the conveniences of the citizens.

II. ALLIES.

Latin Colonies.

1. *Latin colonies* or *Latins*.—The history of the Latin League has been given above; the Latins were originally the members of the old communities in Latium who formed the confederacy with its meeting place at Alba. To these were added the joint colonies of the Romans and Latins in early times. It is impossible to discover the names of the early Latin towns. Dionysius¹ gives a list of thirty towns

¹ v. 61.

which took part in the struggle of the old Latins against Rome at Lake Regillus, but among them are the names of joint colonies founded at a later date; the latest colony appearing in the list is Setia (382), but as Signia is omitted it has been assumed that Setia is a mistake for Signia, and the list is that of the thirty communities who *had votes* in the League at the time when it was closed (385). It is almost impossible to draw any definite conclusion from this list. The Latin towns in 338 B.C. embraced certain old Latin towns such as Tibur, Praeneste, Gabii, Pedum, Nomentum, Labici, Lanuvium, Laurentum, Bovillae, and many others whose names we do not know, together with the joint colonies of Rome and the Latins, Norba, Ardea, Satricum, Velitrae, Cora, Circeii, Signia. When the League was broken up in 338 B.C. some of these cities were incorporated in the Tribes (*e.g.*—Gabii), some received the ‘Civitas sine suffragio.’ Tibur, Praeneste, Laurentum, and a few others, became ‘Civitates foederatae,’ allied states bound to Rome by a definite treaty.

The Latin colonies, to which the names ‘Coloniae Latinae,’ ‘Latini,’ or ‘Socii Nominis Latini’ were given, were as follows: Sutrium and Nepete (383), Setia (382), Cales (334), Fregellae (328), Luceria (314), Pontiae, Saticula, Interamna and Suessa Aurunca (314-312), Alba Fucens (303), Narnia and Sora (299), Carsoli (298), Venusia (291), Hatria (289), Cosa and Paestum (273); in all, eighteen colonies. To these are to be added the twelve later colonies: Ariminum (268), Beneventum (268), Firmum (264), Aesernia (263), Brundisium (244), Spoletum (241), Cremona and Placentia (218), Copia, Valentia and Bononia at some time between 200 B.C. and the founding of Aquileia, the last Latin colony (183-181). Colonists were sent to these places in much larger numbers than to the burgess colonies; they seem never to have numbered less than 2500, and in the case of Venusia reached the huge number of 20,000. Down to the year 241 B.C. few Roman citizens were included, for they were receiving assignments in the lands formed into new tribes; after 241 B.C. they no doubt joined the Latin colonies more freely, though they lost their citizenship by doing so.

Jus
Duodecim
Coloni-
arum.

In connection with these colonies the phrase 'Jus duodecim coloniarum' (the rights belonging to the twelve colonies) has caused considerable difficulty. What were these twelve colonies? Cicero¹ tells us that Sulla gave to Volterrae the rights which were given to Ariminum, and explains this as being the rights of the twelve colonies. From this has been drawn the conclusion that the twelve later colonies, beginning with Ariminum, had not the same rights as the earlier colonies. The objection to this is that, according to Livy, there was yet another Latin colony, Luca, so that there were thirteen, and not twelve. Mommsen endeavours to avoid this difficulty by supposing Luca to be a wrong reading for Luna, to which a burgess colony was sent three years later; but, unfortunately, the names of the commissioners are given, and differ in each case. Moreover, Festus mentions Luca as having been a Latin colony, so if we accept Mommsen's view, we must assume that Festus too made a mistake. Bélloc holds that the twelve colonies were those which refused their assistance to Rome in 209 B.C. and who lost certain rights in consequence, and either Cicero made a mistake about Ariminum or we should read 'Ardeatas' instead of Ariminenses. Both these views involve us in no small difficulties, and it is impossible to come to any definite conclusion. It appears, however, that there were two classes, one of which was treated with greater consideration than the other.

(1). Those possessing *Commercium* and *Conubium* with Rome. They could settle at Rome and get a vote in one tribe in the *Comitia Tributa* and *Concilia Plebis*.

(2). Those who lost *Conubium* and the right of coining silver, but were otherwise on the same footing as the former class. Of these colonies there were twelve.

Position of
the Latins.

The Latin colonies then were considered by Rome as independent allied states; they were not governed by Roman magistrates, and they only adopted Roman laws if they chose. They had, moreover, the right of coining money, which was restricted (at any rate for those founded later), in 268 B.C. Each colony was bound to furnish troops (*Cavalry* and *Infantry*), the maximum of which was fixed by the 'formula' (the regular

¹ Caec. xxxv. 102.

official list). Every year the Senate fixed the number of troops to be supplied by the *Socii*, and the Consuls apportioned the demand among the different states; these troops did not serve in the legions but in special cohorts, and were paid by the city which furnished them. No taxes were imposed on the allies, but in 204 B.C., as a punishment for the refusal of 209 B.C., the Senate imposed the *Tributum ex Censu* and extra Military burdens on the recalcitrant colonies.

In the middle of the second century B.C. the Latins residing at Rome possessed the right of voting in one tribe drawn by lot, and could gain the full *Civitas* in three ways:—

(1). By settling at Rome, on condition that they left a son in their native town.

(2). By holding a magistracy in a Latin town.

(3). By accusing and procuring the conviction of a Roman magistrate on a charge of financial irregularities (*Repetundarum*). This right was apparently extended to all 'peregrini' by the *Lex Acilia* (123 or 122 B.C.), but restricted again to Latins by the *Lex Servilia* (about 102 B.C.).

The full franchise was gradually given to all the old Latin towns, so that after 200 B.C. the full *Civitas* extended practically all over *Latium*; and at the same time 'Cives sine suffragio' disappeared. This simplification of the treatment of Italy was the outcome of the second Punic war; those of the old Latin cities and *municipia* who remained faithful mostly received the full franchise; those who had to be punished ceased to be 'cives' at all, and were treated as subjects.

2. *Civitates Foederatae*.—These were cities or tribes bound to Rome by a *foedus*, which either a 'foedus aequum' or 'foedus iniquum'; the old treaty of Cassius with the Latins was generally taken as the type of the 'foedus aequum' in later times, and states bound by these equal alliances were the Latin communities which became allied states after 338 B.C., such as *Laurentum*, each party to the treaty undertaking to uphold the integrity of the other. The 'foedus iniquum' was distinguished by a clause in which the party contracting with Rome bound itself to uphold the honour of the Roman

Enfranchisement
of old
Latin
towns.

Allied
States.

people, without any stipulation for reciprocity.¹ These states comprised nearly all the Italian races which had been conquered by Rome. After their submission Rome usually planted colonies in their midst to ensure their subjection, part of their lands being assigned to colonists, and then made an alliance with them stipulating for their assistance.

In Etruria the old League was broken up and the Etruscan cities became *civitates foederatae*, e.g.—Perusia, Volsinii and Falerii; the same plan was followed in Umbria where fifteen cities were thus bound to Rome by treaties; in Picenum Asculum was so treated; in Samnium treaties were separately made with Caudium, Telesia, and other cities. The South of Campania was arranged in three Leagues, and treaties made with each, (1) Neapolis and a few islands, (2) Nola with Ardea and other towns, (3) Nuceria with Pompeii, Herculaneum and Stabiae. Certain Latin and Volscian towns (e.g., Praeneste, Tibur, Cosa and Fabrateria) were allied to Rome in the same way.

Lucania was treated as a whole, consisting of twelve towns under the presidency of Grumentum, and the same principle was applied to the twelve Bruttian towns under Cosentia. Separate treaties were made with about forty Apulian towns, and most of the Greek cities in the south such as Thurii, Heraclea, Metapontum, Locri and Rhegium.

Their
position.

All these allies were internally independent, and paid no tribute to Rome; but they were bound to supply contingents to the army or navy and in some cases to both. The role of the allies, to which the name 'formula togatorum' was given, was drawn up by the Romans, who determined the size of the contingents. Of course Rome was supreme as regards war and peace; on these matters the allies were never consulted; they only had to fight when called on; and all the disputes that arose among the allies themselves were settled by Rome. At first their right of coining silver was admitted; but as Roman power increased and Roman institutions spread over all Italy, this right was restricted or else taken away altogether about 268 B.C.; if they continued to exercise it, which is exceedingly doubtful, we may assume that the money coined

¹ Cf. treaty with the Ætolians. Liv. xxxviii. 11.

by them was restricted to the territory of the coining State. Their private rights were not interfered with; they had *Commercium* and *Conubium* with one another with a few exceptions (*Tibur* and *Praeneste*); but unlike the Latin allies they had no *Commercium* and *Conubium* with Rome.

Such then was the organization of Italy when its conquest was finally achieved by the Romans. Side by side with the ruling State there was a large number of allies more or less closely bound to Rome by ties of common interest. Rome pursued a far-sighted policy in her dealings with the Italians; she never needlessly alienated a powerful community by continually interfering in its internal affairs or unnecessarily parading her own supremacy; for the most part the various States kept their old magistrates and governed themselves; those who had been placed on the footing of '*cives sine suffragio*' always felt that the full franchise was a prize to be won by faithful service; the Latins appreciated their privileged position; and generally all the allies, Latin and Italian alike, gained vastly in internal prosperity by the established supremacy of Rome. The old suicidal tribal wars disappeared; Italy was regarded as a whole, and from the Apennines to the Straits of Messina a common name was given to the Italians, '*togati*,' the wearers of the '*toga*.' There was now one great power holding itself responsible for the safety of Italy, which early began to enjoy an immunity from Gallic invasion that it would never have had if the power of Rome had not broken up the old system of a number of independent and hostile City States. Italy was now one political whole, such as Greece never could have been, and it was this alone that enabled Rome and Italy to come victorious out of the great struggles in which they were soon to be engaged.

In spite of the policy of isolation which Rome followed in arranging the relations between herself and her allies, the allies were assured security as long as the safety of Rome was upheld; they lived a wider life than they would have done but for the subjection of all Italy to Rome. Commerce flourished with the pacification of the whole peninsula, and in their dealings with foreigners the allies shared all the

General
moderation
of
Rome.

Advantage
of Roman
supremacy.

advantages which naturally followed the estimation in which Rome was held. The maintenance of the alliance was thus to the advantage of both, and it was the general recognition of this fact that determined the loyalty of the allies in the Hannibalic war.

Constitutions
modelled
on the
Roman
pattern.

For the most part the constitutions of the allied cities were remodelled on the pattern of Rome, that is to say the political power was placed in the hands of a governing aristocracy; but when these changes were carried out, they were generally effected quietly, and no further interference followed. The allies were virtually subjects, but the supremacy of Rome was generally kept out of sight, though occasionally the government thought it advisable to make an example. In 265 B.C. the new citizens at Volsinii had gained political power, and the old citizens (probably corresponding to the Patricians at Rome) appealed to the Romans who summoned the city to surrender, and, when the new government refused to do so, destroyed it. Such an act shows clearly enough the view the Romans themselves took of their relation to their so-called allies; but instances of such severity were very rare, and it was by their general moderation, by the grant of a free communal constitution and freedom from taxation, that the Romans secured the unwavering attachment of so many of their allies even in such a crisis as that of the second Punic war. Hannibal found himself surrounded on all sides by a chain of fortresses firmly attached to Rome, and even the terrible defeats of the first years of the war had little effect on the loyalty of the Latin allies. It is instructive to compare the results of the Roman and Carthaginian systems; the former was one of toleration, the latter of general oppression and heavy taxation; the Roman allies remained true with a powerful enemy ravaging their lands for fourteen years, the Carthaginian subject allies rose to welcome an invader and lead him against the mistress that oppressed them. In fact Italy was rapidly becoming a political unity; the magistrates of all the allied towns and municipia had to take a census every five years, on the pattern of the census in Rome, which was intended to furnish the Senate with an accurate list of the resources

of Italy. The year 267 B.C. saw the institution of the four Quaestores Classici, the first Roman magistrates ever created with extra-urban functions; they had to look after the naval marine and the safety of the coasts; but at the same time they had to exercise a general supervision over the census and contingents of all the Italians.

A great change was introduced during and shortly after the second Punic war; the 'cives sine suffragio' disappeared. They either lost the citizenship altogether, as Capua did, and became subjects on a very inferior footing, as a punishment for having joined Hannibal, or else were incorporated in the Roman tribes as full citizens. But another class came into existence, inferior to all the others, the 'peregrini dediticii,' who were little better than public slaves, possessing no municipal freedom, and deprived even of the right of carrying arms; such were the people of Capua, the Bruttii, and others who had joined Hannibal. Their lands either became 'ager publicus' like the Campanian domain, and were leased for the benefit of the Roman Treasury, or else were divided among Roman citizens or colonists (*e.g.* the town of Vibo which became the Roman colony of Valencia). On little better terms than these were the Celts south of the Alps, in whose treaties it was stipulated that none of them should ever gain the Roman citizenship. In short, the result of the Punic wars was the accentuation of the supremacy of Rome, and the comparative fall in the importance of the Italian as compared with the Latin allies.

But all alike had grievances to complain of, and the discontent which finally broke out in 90 B.C. began to exist a century earlier. The Latins were still privileged as compared with the rest of the allies, but their inferiority to Rome was emphasized. They had no actual claim to a share in the spoil of war; no doubt it was often given, but it was by an act of grace on the part of the sovereign city, and not as a result of a legal claim on the part of the allies; and in 177 B.C. they received only one half the largess given to the Roman troops. Moreover they had to bear more than their share of the burdens of war; it became the practice to call out twice as many allies as Roman infantry, and in the more expensive

Change
after the
second
Punic
War.

Peregrini
Dediticii.

Growth of
discontent.

branch of cavalry service three times as many ; the fleet was manned almost entirely by the maritime and other allies (*socii navales*), only the *proletarii* of Rome being called on to serve. The allies were always selected for the worst service (*e.g.* the wars in Spain), and they were selected in large numbers for service in 200 B.C., while all the Romans who had served in the second Punic war were discharged. The rights of the Latins too were actually restricted ; the freedom of migration to Rome was checked and allowed only if the Latin left a son behind them, and as the Latin States sank in consideration, the inhabitants began to drift to Rome and depopulate the Latin cities. The result of this was that as early as 187 B.C. large numbers of Latins were ejected from Rome. Lastly the Latins were no longer recruited by fresh additions to their ranks. After the founding of Aquileia the colonies were given Roman and not Latin rights, the reason being the decline of Latin compared with Roman rights. The general result was the elevation of Rome at the expense of the allies to whom she owed her position, and an increased sharpness in the distinction between Romans and allies, citizens and non-citizens ; and the dissatisfaction which originated in this circumstance was naturally increased during the whole of the second century B.C. by the utter ruin of the agricultural class to which so many of the Latin and Italian allies belonged.

CHAPTER VII

THE PERIOD OF THE GREAT WARS

THE hundred and fifty years of political quiet which followed the passing of the Hortensian Law are marked by only one important constitutional change—the reform of the *Comitia Centuriata*.¹ Everything connected with this is very obscure, and our knowledge of it is derived only from a few scattered references; for it falls within the great gap in Livy's work, from which we might have hoped to gain some small indication of the lines on which the reform proceeded. Even the date of it is uncertain; we know that the new organization introduced a connection between the Centuries and the Tribes, and that the number of Tribes was raised to its final number, thirty-five, in 241 B.C., and Livy says it took place after the Tribes had been raised to their full number.¹ We may therefore place the change after 241 B.C., and if it had happened after 218 B.C. Livy could hardly have avoided mentioning it again, inasmuch as in his account of the original arrangement he alludes to the later scheme as being something quite different. Moreover it seems likely that it was undertaken by a Censor, as being an entire change in the arrangement of those who were included in the census, and on the whole the tendency of the reform was to lessen the huge preponderance hitherto held by the wealthier citizens. Now we know that Gaius Flaminius, a violent opponent of the ruling aristocracy, was Censor in 220 B.C.,

¹ 'Post expletas tribus.' The prevailing view is that the change was made in 241 or 240. It is argued that if Flaminius had brought it about, Livy would hardly have failed to mention it in one of his diatribes against him. The 'Argumentum ex silentio' is, however, not to be relied on. Liv. i. 43. 12.

when he introduced a new regulation concerning the enrolment of the *Libertini*, and in default of any evidence for a different date we may attribute to him a measure which was thoroughly in conformity with his general policy, and which no one but a bold innovator would have undertaken.

Change in
position
of the
Assembly.

The general tendency in Republican times was for the Centuriate Assembly to fall more and more into the background in matters strictly political, while the Tribe Assembly came to the front. In the original *Comitia Centuriata* the property qualification had had a great influence on the military organization; the rich citizens were the better armed, because they alone could afford to supply themselves with armour like that of the Greek *Hoplite*; they had necessarily to bear the brunt of battle, and there was therefore little injustice in giving them an advantage in voting strength in the Assembly, which they did not numerically deserve, when it became a political institution. But the old military system had disappeared, and the position of the troops in battle no longer depended on their assessment, but on their military experience. Thus the one justification which might have been pleaded for the inequalities of the original arrangement had disappeared; nearly all other distinctions within the burgess body had been levelled; and the anomalous advantages allowed to wealth in the *Comitia Centuriata* must have invited attack. It could hardly be undertaken by anyone but a Censor, for fear of the *Tribunician veto*; for the '*Censoria Potestas*' alone (with the exception of the Dictatorship) was not subject to *Tribunician* interference in the preparation of the census lists and the management of his financial business. One distinction alone continued to exist in the Roman burgess body, that between freeholders and non-freeholders; for the Romans clung to the principle by which those with landed possessions were considered to have the greatest stake in their country's welfare, and to them a great advantage was given, for while they were enrolled in all the thirty-five tribes, especially in the thirty-one rustic tribes, the non-freeholders were all confined to the four city tribes where they had of course

little influence on the voting in the Tribe assembly; and this principle of favouring the agricultural population, which was by no means unnatural in a State which owed its pre-eminence to the fine qualities of its farmer class, continued till late times, even when this class had largely disappeared, and the rustic tribes exercised an influence in the Comitia greatly out of proportion to their numerical importance.

In fact the Comitia Centuriata as originally constituted was out of date; the military and political 'exercitus' had become quite distinct, and the only trace of the military origin of the assembly left was the close connection between the Centuries and the Consul, and the principle that no one but a magistrate 'cum imperio' (with military power) could summon it or preside at its meetings. The tribe organization, based on *locality*, in which every tribe was connected by local interest and sentiment, had supplanted the organization into Centuries, which were connected by nothing but the mere accident of a common property qualification; and moreover the new arrangement introduced by Appius Claudius into the Comitia Centuriata still remained; landed property was not the only qualification; personal property was also included in the assessment, and thus places in the highest classes were filled by men who had little influence in the Tribe Assembly, where non-freeholders were all included in the four City Tribes. There was really no need for the continuance of the Comitia Centuriata at all; the Tribe Assembly could have done all there was for the assemblies to do, but Roman conservatism shrank from abolishing an institution which had formed an integral part of their constitution for three hundred years, and the same feelings which led them to retain an obsolete assembly like the Comitia Curiata led even a daring innovator like Flaminius rather to modify the old Comitia Centuriata, and bring it more into conformity with modern ideas, than to abolish it altogether.

The nature of the Reform seems to have been as follows —the Tribal lists became for the future the basis of the Comitia Centuriata as well as the Comitia Tributa. But

The nature
of the
Reform.

the three leading characteristics of the old *Comitia Centuriata* were retained—the division into *Juniores* and *Seniores*, the Centuries, and the Property Qualification. Each tribe now furnished ten centuries, five of *Seniores* and five of *Juniores*, and these ten centuries were divided into five classes, according to their property qualification: for example, the ‘*Crustumine*’ Tribe furnished one century of *Juniores* and one of *Seniores* to the first class, the same to the second class, and so on. This principle extended to all the thirty-five tribes gave a total of 350 centuries, to which must be added the old eighteen centuries of *equites*, which were left untouched, and the five centuries of supernumeraries, amounting in all to 373. Each class then in the new assembly contained the same number of centuries, namely 70, two from each tribe, one of *Juniores* and one of *Seniores*.

The question of the property qualifications for the various classes cannot be settled; they were altered, but probably *not raised*, the only change being that they were expressed in terms of the more modern coinage. Assuming that the assessments given by Livy for the original assembly represent the value of the landed property at the time of the change, we have for the five classes 100,000, 75,000, 50,000, 25,000 and 12,500 (or 11,000), ‘*asses librales*’ respectively. The ‘*as libralis*’ had now given place to the ‘*as sextantarius*’ of one-sixth the face value of the original *as*; so that the assessments in terms of *asses sextantarii* will be 600,000, 450,000, 300,000, 150,000, 75,000 (or 66,000) respectively; but owing to the great increase of wealth, the cheapness of money and the consequently higher prices, the assessments were raised, that of the first class being 1,000,000 *asses sextantarii* (or 400,000 *sestertii*); the other assessments were similarly raised in proportion of 10 to 6. This is largely conjectural; we know that 400,000 *sesterces* was the qualification for the *Equites* in later years; but this scheme will hardly hold for the lower classes, for about this time the census of the lowest class was reduced to 4000 *asses*. The reorganised *Comitia Centuriata* will be roughly represented as follows—

	Assessments.	Centuries.	Name.
Equites		18	
1st Class	{ 1,000,000 asses sex. or 400,000 sestertii }	70	Equester Census
2nd "	{ 750,000 asses sex. or 300,000 sestertii }	70	Tribuni Aerarii
3rd "	{ 500,000 asses sex. or 200,000 sestertii }	70	Ducenarii
4th "	{ 250,000 asses sex. or 100,000 sestertii }	70	
5th "		70	
Supernumeraries		5	
		<hr/> 373 <hr/>	

The general results of this Reform are fairly clear :

Firstly — whereas in the old assembly the first class together with the Equites had held an actual majority (98 centuries out of a total of 193) no such advantage was given to wealth in the new arrangement. The Equites were still among the richest citizens and were chosen by the Censors; that is to say, they were always likely to support the rich governing class, and these eighteen votes were the only advantage given in the voting, apart from the fact that the centuries of the first class contained of course far fewer voters, for the citizens in some of the rustic Tribes possessed of the highest census must have been few and the centuries very small; but this was a feature that could not be removed without entirely abandoning the old organisation, and that Roman conservatism could not bring itself to do.

Results
of the
Reform.

Secondly — the membership of the centuries depended on membership of the Tribes. The number of centuries under the new scheme allotted to the four city Tribes, in which the non-freeholders were all enrolled, amounted to only forty in all; so that in the centuries as well as in the Tribes a great preponderance was given to the freeholders, even though personal property was no doubt taken into consideration in the assessments.

Change in
the order
of voting.

A further innovation was introduced. Hitherto the vote of the Equites had been taken first, and this was always regarded as an advantage, for the effect of the first vote seems to have been by no means without effect on those who came after. Henceforth the Equites voted with the first class and the first voting century was drawn by lot from the eighty-eight centuries of Equites and first class combined ('centuria praerogativa'), the centuries of the four city Tribes being excluded — another proof of the low esteem in which these Tribes were held. Further, the distinction between the Patrician and Plebeian Equites was now abolished; the old 'Sex Suffragia'¹ were thrown open to Plebeians, and only the name remained as a survival of the old order of things.

The new
Assembly
and the
Army.

From this time forward there were no further changes in the assembly; and it continued to exist in this form till the end of the Republic. It was now a political assembly, and had little connexion with the army; in fact, the centuries were entirely ignored in the levy. The number of troops to be raised was apportioned among the thirty-five tribes and a definite proportion levied in each tribe, from each of the five property classes, if they were needed. But the army was also changing its nature; the introduction of a lower qualification admitted a number of the poorer citizens who were doubtless only too willing to serve in the hope of booty and pay, and the burden of personal service gradually devolved less and less upon the higher classes.

The
Tribes.

The number of the Tribes remained at thirty-five; in course of time the more recent and distant Tribes grew to be far greater than the old Tribes, most of which were composed of citizens living close to Rome; all new additions to the citizen body were enrolled in these recently made Tribes, for the communities to which the Roman citizenship was afterwards granted were always some distance away from Rome. But the size of the Tribe made no difference to its influence in the assembly; it had still only one vote in the Comitia Tributa, and ten in the Comitia Centuriata; and as the members of the distant

¹ p. 28.

Tribes seldom came to Rome for political purposes, the result was that the assemblies came more and more into the hands of the older rustic Tribes, who lived close round the city walls; and as these small farmers in turn disappeared before the large landowner the assemblies came to consist largely of the city Tribes.

That this reform was the work of Flaminius is rendered the more probable by a consideration of the rest of his political career. In 232 B.C. as Tribune he introduced an Agrarian Law. Some of the lands which the Gauls had lost after their defeat fifty years before had been 'occupied' by Roman citizens; this public land was now considerably increased in consequence of the recent defeat of the Gauls, and Flaminius brought in a measure proposing that this land should be distributed among the poorer citizens. On the whole it seems to have been a wise measure; it would afford an outlet for some of the proletariat and ruined small farmers at Rome; and besides this there was always the fear of a renewal of the war with the Gauls, and strong settlements of Roman farmers in Picenum and Gaul would prove a far more effectual check to the advance of the Gauls to the south than the few scattered shepherds and husbandmen who tilled the lands occupied by the rich or tended their flocks. The proposal was both useful and necessary—it aimed at increasing the number of small landowners, on which the strength of Rome had formerly depended; but it raised a storm of opposition on the part of the government; it was passed, but little seems to have been done for several years to carry it into practical effect, and the rising of the Gauls in 226 B.C., which might have been checked at its source if the government had loyally carried out the will of the assembly and the policy of Flaminius, culminated in a serious invasion of the north of Italy.

Our accounts of Flaminius are hardly to be trusted; he is universally abused as a violent demagogue. Cicero represents him as violating the *Auctoritas Senatus* (the authority of the Senate) by introducing this law directly to the Assembly without previously getting the consent of the Senate. Polybius,

whose judgment was tempered by the aristocratic prejudice of his Roman friends, regards him as the originator of demagogism at Rome and the pronounced change for the worse in the Roman Commons. These are both partial verdicts. In later times it certainly was the universal practice to take every measure before the Senate and get a *Senatus Consultum* in its favour before taking it to the Assembly; but it is very doubtful if this practice yet prevailed uniformly. It was only fifty-five years since the passing of the Hortensian Law had given supreme legislative powers, free from all checks, to the Assembly of the Plebs; and nothing shows more clearly the rapidity with which the Senate advanced in power than the outcry raised against Flaminius for neglecting the practice of consulting the Senate. His action was in no way unconstitutional; he probably saw how hopeless would be the task of getting the Senate's consent, and he resolved to use the power which constitutionally belonged to himself as Tribune, and the Assembly as the supreme legislative body in Rome. It may have been a bad precedent, but the possibility of the people voting themselves a share in the public land was not due to any fault of Flaminius; it was a defect in the constitution.

Flaminius
and the
Libertini.

Another measure carried out by Flaminius in his Censorship of 220 B.C., probably in connexion with the reform of the *Comitia Centuriata* described above, was the removal of the Libertini possessed of landed property to the four city Tribes. Appius Claudius had enrolled all the Libertini and non-freeholders of free birth in all the Tribes indiscriminately; the Censors of 304 B.C. had removed the non-freeholders (Libertini and freeborn alike) to the city Tribes, leaving the Libertini who were freeholders on exactly the same footing as the freeborn freeholders in all the Tribes. Flaminius now removed all the Libertini to the city Tribes in order to lessen the power of the nobles who were at this time supported by the Libertini, though in later years these came to be regarded as one of the main supports of the ultra-democratic party. The aim of this reform is identical with that of the reorganization of the *Comitia Centuriata*:—to lessen the

power of the nobles, and to increase the influence of the middle-class landowners.

One other reform is probably to be assigned to his influence; The Lex Claudia.
 in 218 B.C. was passed the Lex Claudia forbidding Senators to enter into any commercial speculation.¹ A great field had been opened up to the wealthy citizens by the acquirement of the new provinces; the object of this law was to prevent those who governed them from having a direct pecuniary interest to maintain there. There is no doubt that the commercial party in Rome had been growing in strength for some years, and that the war with Carthage for the possession of Sicily was partly due to commercial considerations. The promoters of the law doubtless hoped that this prohibition would lead to the wealthy Senators investing money in land, and improving the resources of Italy; but in every way the results of the law were unfortunate; it caused the growth of a distinct party of wealth, a capitalist class whose whole attitude in politics was determined entirely by the interests of their purse; it forced the Senators to look out for other investments for their capital, now that they were excluded from commerce, and was directly responsible for the growth of 'Latifundia,' large estates farmed almost entirely by slave labour, which in the words of Pliny 'were the ruin of Italy'; in short it brought about the very result which Flaminius in all his legislation endeavoured to avert.

Vague as are our accounts of these measures, it is clear Flaminius that Flaminius was actuated throughout by the desire to help the farmer class, and to lessen the rising influence of the nobles; he ignored the powers which the Senate were accumulating in the political field, just as he ignored their attempt to recall him to Rome on the ground of a flaw in the auspices when he was marching against the Gauls. His memory has been covered with undeserved obloquy because he was unfortunate enough to be annihilated by Hannibal. He was not a general, though, like every Roman, he was a soldier; most of his detractors would have met the

the precursor of the Gracchi.

¹ It is possible that this law also contained stipulations that no Senator should undertake any public contract, and thus was primarily responsible for the appearance of the Equites as a financial class.

same fate in the same circumstances. His legislation on the whole was needful, and was no doubt generally so regarded; for otherwise it could hardly have escaped Tribunician veto. That it did so is the greatest argument in its favour. Flaminius was probably a headstrong man, with violent anti-Senatorial prejudices, intensified by the evident desire of the Senate to thwart him in every step he took after 232 B.C. But he had the interests of the agricultural class at heart, and in this respect Flaminius was the precursor of the Gracchi.

Great
extension
of Roman
power.

This same period which was marked by absence of constitutional change and political activity at home covers the years of Rome's most rapid expansion abroad. By the year 287 B.C. Rome had already become the great power of central Italy; the Latin League had been destroyed; the Latins had sunk from their position of equality with Rome to that of subject allies; the Samnites had been crushed. The boundaries of Rome were the Ciminian Forest on the north with an outpost at Narnia, the Abruzzi on the east, and Capua in the south, with strong outposts at Luceria and Venusia. The wars with the Gauls and Pyrrhus which followed soon after the Hortensian Law led to the further expansion of Roman territory, and by the year 266 B.C. the whole of Italy south of the Apennines belonged to Rome. Scarcely had Italy been conquered and settled than the great wars with Carthage began. The first Punic war was fought for the possession of Sicily. The immediate cause of the war was an attack made by Hiero, King of Syracuse, on the Mamertines, a band of Italian mercenaries who had established themselves at Messina, and had risen to be the second power in Sicily: in their difficulty they had the choice of appealing to Rome or Carthage; they did both, and the struggle between the two great powers of the Mediterranean, which had long been foreshadowed, was begun. But the Romans hesitated long before entering on the war; they had an alliance with Hiero; the Mamertines had been guilty of exactly the same shameless treachery which the Romans had punished so signally in Rhegium in 271 B.C.; but fear of the Carthaginians who would certainly gain a footing in Messina if the Romans refused the petition of the Mamertines, overcame all these

considerations and the Mamertines were admitted as members of the general Italian confederacy; a treaty was made with them; Rome undertook the protection of their interests in return for assistance in war on the same terms on which she allied herself with the conquered Italians on the mainland. Carthage had for centuries been fighting for the possession of Sicily; time after time she had been on the point of securing the whole Island, when the power of Syracuse had risen again, and driven the invaders to the west of Sicily. The leading commercial nation in the world, the Carthaginians always cast longing eyes on the most fertile island in the Mediterranean; and their desire to gain possession of it was increased by the consideration of the advantages to be gained by securing a base of operations at a short distance from Italy for the struggle against Rome which already appeared to be inevitable. Carthage had long ago ceased to confine her operations to Africa, and the question of interference in the affairs of the Mamertines was soon settled by her on considerations of general expedience. For the Romans it was different; hitherto their efforts had been directed solely to securing undisputed possession of Italy; all the Roman political ideas were bound up in the word 'Italia'; their constitution was that of a city State with a small territory, and this constitution they had already outgrown; they had no definite scheme of conquest across the seas; they had no conception of any system which could be applied to the government of transmarine possessions; they had no idea of the formidable nature of the struggle with Carthage, and no experience of conducting a long war by a series of campaigns at a distance from Rome; that experience they were destined to buy at a heavy price. Their chief inducement to enter on the struggle was the fear of Carthage; already Carthage had made an effort to get possession of Rhegium, and the treaty existing between the Carthaginians and Romans was a hollow agreement which each party was prepared to break if its interests pointed to that course; the fear of Carthage ultimately overcoming Syracuse determined the Romans to take a step in the dark. The actual nature of their procedure is noteworthy; unwilling

Political extension of 'Italia' to include the Mamertines.

to give up their purely Italian policy, and yet forced by circumstances to enter on an extra-Italian contest, they tried to reconcile their political ideas with their actual policy by extending the bounds of 'Italy' to include Messana, and received the Mamertines among the Italian allies. The embassy sent to implore the aid of Rome was introduced before the Senate; but that body was unwilling to take the final step; they came to no decision, and referred the whole question to the Assembly, leaving to them the responsibility of forsaking the traditional policy of Rome. The people, whose confidence had been raised by the successful issue of all their Italian wars, and who were far less fitted than the Senate to appreciate the dangers and difficulties of the new policy, never hesitated. The prize of the war was Sicily, and that was a prize worth fighting for. Help was sent to the Mamertines and the long struggle with Carthage began.

The government of the Aristocracy.

Before the wars with Carthage began the Roman government was virtually in the hands of the Aristocracy; the people who had received the supreme power unfettered by any checks did not exercise it to interfere in the administration. The magistrates for the most part supported the Senate with unwavering loyalty; the Tribunate ceased to be a weapon of opposition; it fell like all the other magistracies into the hands of the Aristocracy, and was found a useful instrument for government, and an indispensable safeguard against any disloyal action on the part of the other magistrates. If there was a general tendency towards concentration of the government in the hands of the Senate even before 287 B.C., far more was this the case during the great wars of this period. The democratic city State of antiquity, with a governing assembly of citizens and annually changing commanders, was by nature peculiarly unfitted to conduct a long and difficult war; an assembly of twenty thousand citizens is hardly likely to show the patience, foresight, and indomitable perseverance which are necessary for carrying on a struggle with one consistent plan for a long series of years. Hence the result of wars on the city State was always the lessening of the influence of democracy; the smaller the number of those who have the management of a war the more likely is it to be carried out

with the necessary vigour and consistency; the Democratic city state could only attain the desired result by placing itself in the hands of a single chief, and following his lead unquestioningly, as Athens did in the days of Pericles; as soon as the management of the war returned to the assembly, constant vacillation and consequent failure began, till in despair at its own inability to conduct the war the Democracy was willing to sacrifice itself, and acquiesce in an oligarchic constitution.

In the conduct of the Punic wars the Roman assemblies interfered but little; in the Senate they had a permanent board, comprising all the experience of the State, composed of ex-magistrates many of whom had themselves led the Roman armies; the people confidently left to them the management of the wars. How far did the Senate fulfil the natural expectations of the people? Looking at the operations of the first Punic war we might doubt whether history has ever afforded the spectacle of a more gigantic series of blunders. The war opened in Sicily and all the efforts of Rome were directed to securing the possession of the island. It was soon felt that nothing could be done without a fleet, and the Romans entered on the task of providing themselves with a fleet, to contest the seas with the greatest naval power in the world, with a determination which has won the admiration of all succeeding ages. Then they wasted the years 260-258 B.C. in ravaging the coasts of Sardinia and Corsica and accomplished nothing. In 256 B.C. they initiated a bolder policy and invaded Africa; but no sooner did they secure a footing there, and get the prize almost within their grasp, than they recalled the majority of their forces, allowed the remainder to be annihilated, and then on the arrival of a huge fleet, which destroyed the Carthaginian navy, they embarked the remnants of their army of occupation and evacuated Africa. The struggle was then again transferred to Sicily, and the year 249 B.C. found the Romans in the same position as fourteen years before; three great naval disasters, two of which were due to incompetence or want of seamanship in their admirals, had so dispirited them that they abandoned the sea altogether, and had the Carthaginians seized the opportunity and put

The
Senate and
the wars.

forth all their strength, the tide would have turned strong against Rome. For seven years the war was allowed to languish, and no definite plan of action was formed at all till in 242 B.C. a fleet was built through the energy of Catulus and the private patriotism of the Romans, which brought the war to an end. This was not a brilliant record for the Senate, but the fault lay rather with the spirit of the Roman constitution. Their errors were sufficiently glaring, but the errors of the Comitia if they had interfered might have been even worse, and that they appreciated this fact is shown by the confidence and loyalty with which they supported the Senate through the twenty-two years' struggle. The Senate had had no experience in managing a great war at a distance from home, in combining forces by land and sea over a vast space in a continuous series of operations; the wars they had hitherto directed had been fought in Italy, with the city itself as their head-quarters; each campaign generally produced a battle, and when it was over the army returned to Rome to winter; there was little to do but call out the levy, assign the different campaigns to the various generals, and send them out to defeat the enemy. No great amount of strategic ability was needed in the general; he was at the head of an army of yeomen; he was an ordinary Roman citizen himself without much military training, but possessed of the soldierly qualities which peculiarly marked all the Romans and enabled them to defeat the Samnites and other Italian tribes. The chief object of the general was to bring the enemy to blows, and then trust to the native bravery of the Romans to do the rest. For such work as this the Consuls, chosen from the citizen body by the Comitia, were competent enough; they could be trusted to set the men a good example in the field; they were sure to be good soldiers, there was not much need for them to be great generals; the Roman army had a definite battle array, with which the soldiers were well acquainted; it was to the fighting qualities of the men not to the strategy of the generals that Rome owed all her successes in war. But something more than this was wanted now; a knowledge of strategy was required to pick out the weak points in the Carthaginian Empire and attack them at an advantage; it was unfortunate

for Rome that there was no individual general of any mark fit for the task, and the Senate was in no way fitted to direct the scheme of operations. There is no need to imagine that there was any particular scarcity of commanders of average ability at Rome; the Metelli and Reguli of the first Punic war were no doubt as competent as the Curii and Decii of the earlier wars, but entirely different qualifications were now needed; the aristocratic Claudius, elected by the votes of the Comitia because he was a member of an influential family, might have been quite competent to conduct successfully a campaign in Samnium; but it was absurd to entrust to such a man, who owed his position to personal or family influence or electioneering intrigue, the safety of a Roman fleet; for the Roman system of generals elected by popular vote, if inadequate for the needs of the army, was simply ludicrous when extended to the navy, especially when the principle of non-interference with the commander on service was carried to such lengths that the admiral who had never been to sea before could ignore the recommendations of a skilled pilot and throw away a whole fleet. But not only was the Roman system of elected generals fatal to the proper employment of the forces; the whole system of annually changing commanders was absolutely fatal to any continuity in the operations of the war.

The Senatorial management in these circumstances could not fail to be full of faults; it was fortunate for Rome that the Carthaginian Government was even more incompetent. The faults of Rome were accidents of the constitution, the faults of Carthage were inherent. The Roman people and the Roman generals were loyal to the Government, and the Government was honest and patriotic; in Carthage the support of the people had to be bought by the Government, and the Government was a mass of corruption; the Roman generals were rewarded for success and pardoned for failure; the Carthaginian generals were rewarded for success by suspicion and for failure by crucifixion. And not the least important of the weak points brought out by this war in Rome, was the utter inadequacy of the financial system; this was seldom felt in later years when the wars brought in large sums of

The weak points in the Roman Constitution.

money and the tribute reaped from the Provinces kept the treasury full; but in this war the destruction of the Roman fleet exhausted the people to a degree unknown before, and the vast expenses of the distant operations by land and sea were far in excess of the trifling sums needed for Italian campaigns. The building of the victorious fleet in 242 B.C. was only rendered possible by the patriotic loan of the wealthy citizens. Rome had learned her weak points, but the cost had been heavy, and for the future the Romans never insisted so scrupulously on the system of annual changes in the command; the principle was unchanged, but the system of constant re-election and pro-magistracies partly removed the evil.

The Peace
Commission.

The result of the war was not decisive; Carthage was badly crippled but not crushed; for the present it seemed advisable to relinquish Sicily and prepare to renew the struggle in the future, by husbanding its resources and filling the treasury which had been emptied by the war. Terms of peace were drawn up, the 'political independence and integrity' of Carthage being expressly recognised. The final arrangements are important as showing the constitutional procedure at Rome on the conclusion of a treaty; the terms conditionally arranged by the generals were submitted to the assembly, which refused to sanction them, partly perhaps because they recollected the much harsher terms which Regulus had demanded at the gates of Carthage, partly perhaps because some of those who led the assembly in their opposition to the terms foresaw that the struggle was only being postponed as long as Carthage retained her independence and her financial resources. At last moderate counsel prevailed; a commission was sent to Sicily to arrange terms on the spot, and the original conditions were adhered to with the addition of 1000 talents to the indemnity.

Continued
extension
of Rome.

During the interval between the first and second Punic wars the Romans made some notable advances. In Sicily they had secured their first transmarine possession and the method of treating it introduced an entirely fresh department into the Roman administration—provincial government.¹ T

¹ p. 200.

this possession they added Sardinia and Corsica, by taking advantage of the terrible difficulties in which the Carthaginians were involved during the mercenary war. The foundation of Brundisium in 244 B.C. had marked the intention of Rome to establish its power in the Adriatic; and this was further extended by their success over the Illyrian pirates, which gave them their first foothold on the opposite coast of Greece.

But it was in the peninsula itself that the chief extension of Roman power took place. The boundary of the Apennines was abandoned and the northern limit of Italy was pushed forward to the Po, for the safety of Italy rendered it necessary that the Romans should hold the gates of the Alps. For the first time Roman armies now penetrated to the north of the Po; but these regions were for the most part left in the hands of the Gauls; South of the river the Gauls were doomed to destruction. Extensive assignments of land were made in the North, the great Flaminian road was pushed forward from Narnia to Ariminum, a colony was founded at Placentia, Cremona was laid out and the walls of Mutina were built when the second Punic war broke out.

This war checked the Roman plans in the North, and it arrested the political struggles which seemed not unlikely to break out in Rome again. Already Flaminius¹ had dared to brave the Senate and carry out an Agrarian policy intended to help the small farmer class, who had to wait till the time of Tiberius Gracchus for another champion. But for the intervention of the wars which now followed one another in close succession for eighty years, the struggle that broke out with such violence in 133 B.C. between the Reformers and the aristocracy might have been decided with results less fatal to Rome; the citizen body in the time of Flaminius was better worth fighting for than that for which Gracchus died; the agricultural class had not yet reached the low level of later years from which no legislation could raise them to a worthy position; and the aristocracy had not yet the power which all the circumstances of the next three generations conspired to place in their hands. Flaminius had been able to carry through a law in the face of Senatorial opposition without

Political
struggle
postponed
by the
second
Punic
war.

¹ p. 171.

any violation of the constitution; a radical Agrarian reform might have been effected without fatal results, for the Romans of all classes at that time had not been educated up to that pitch where everything is made subservient to bitterness of party spirit, and bloodshed and civil war are accepted as the necessary accompaniments of political revolution.

Increase of
Senatorial
influence.

The general result of the second Punic war was to re-establish firmly the influence of the Senate, which had seemed to be tottering before the assaults of the Reform party. Again as in the former war the Senate was guilty of many blunders; but the Senate was the only body in Rome that could have carried on the war at all; everything conspired to increase the prestige of the Senate, especially the utter failure of the opposition generals, Flaminius and Varro, and the miserable results of the interference of the Comitia with the management of the war in 217 B.C. Fabius, the Senatorial general, had been appointed Dictator after the defeat at Trasimene, and had the sense to appraise at its true value the military genius of his opponent. He pursued cautious tactics, and, in spite of the strength of his army, refused to be drawn into battle; but in his absence Minucius, the Master of the Horse, met with some trifling success, and the storm broke out in Rome against the Senatorial general. A resolution was passed in the assembly by which the Master of the Horse was raised to the same position as the Dictator, that is to say the Dictatorship, which was revived in times of great danger just because it supplanted the system of collegiate magistrates, was split up, and the evil of a divided command reintroduced; in fact this evil which always attended the regular system was intensified because the two divisions of the army were now placed under generals who were political opponents, and owed their unprecedented position to the bitterness of party spirit in Rome. This interference of the Comitia was utterly unjustifiable; it was unconstitutional to begin with; and the raising of subordinate officers to a level with the Commander-in-Chief, merely to gratify party hatred, might have had still more evil effects if the defeat of Minucius, which so soon followed, had not restored him to his position of subordination, and the terrible defeat of the following year, due largely to

the incapacity of Varro, brought home to the Comitia the fact that there were other than political considerations to be taken into account in appointing the generals of the Roman armies. But there is some excuse for this outburst of the Roman populace; they had been accustomed to see their armies victorious in Italy; they were conscious of the bravery of their soldiers, and had no conception of the advantages which the Carthaginians had in the genius of Hannibal and the trained valour of his veterans. They only saw that there was a comparatively small army, marching wherever the general chose to lead it, and ravaging the most fertile parts of Italy, while a large Roman army followed in its footsteps and hung about the line of march without venturing to come to blows. The exasperation at Rome led to only a momentary outburst; the people took the lesson to heart, and for the time were content to leave the war in the hands of the Senate.

It is too often assumed that in this war the Senate had the monopoly of all the ability and political virtue in Rome, and that the 'pitiful policy of the pavement,' which failed so signally, stood in a marked contrast to the statesmanlike course which the Senate pursued. This is by no means a correct view of the case. The people were the sovereign power; they had the right of appointing to the command whom they pleased; there was a danger of the Senate strengthening its position, and pushing its encroachments still further. The Comitia, except in their momentary outburst of not unreasonable feeling against Fabius, merely asserted their constitutional rights in choosing their own candidates for the Consulship. There was on the face of it no reason why Varro and Flaminius should have been less fit to command the Roman armies than Fabius and Fulvius: it was a coincidence, and a fortunate one for the Senate, that the political leaders of the opposition which was coming into prominence were signally incompetent generals. But after the failure of their interference the people showed a moderation which it is not probable that the Senatorial party would have shown in similar circumstances; the conduct of the war was left to the nominees of the Senate, and in 214 B.C., when the prerogative century gave a vote in favour of two less ex-

The
Comitia
and the
Adminis-
tration.

perienced men, Fabius, as President, took the extraordinary step of sending them back to vote again, with the result that he himself and Marcellus were elected.

Weak
points in
the Aristocratic Government.

No war ever showed more clearly the weak and strong points of a nation than this struggle of Rome against Hannibal. The Senate had all the faults that are invariably inherent in an aristocratic corporation, and the chief of those is a certain narrowness of mind and want of adaptability to circumstances. They succeeded in their defence of Rome because they possessed individually the truly Roman characteristics, unflinching courage in the field, and that indomitable perseverance and patriotism which made them seem to Cineas an assembly of kings; but the safety of the aristocracy depended on the maintenance of some form of equality within their ranks; their system tended to produce men of mere average ability, and to crush all individuality or marked pre-dominance in the members of their order. Their highest type was Fabius himself, the pattern of the Roman virtues and excellence; eminently respectable and narrow-minded, cautious and obstinate; a staunch upholder of the aristocracy which was content to be led by him, and a violent, unreasoning opponent to anyone who seemed inclined to treat this heaven-sent government with disrespect. Fabius would have been fully competent to subdue the Samnites, or conduct campaigns against the Gauls, and he served Rome well as long as it was necessary to act strictly on the defensive against Hannibal. But when Rome had begun to recover from the early disasters, when Hannibal himself was on the defensive, a different system was needed; Fabius and the aristocracy of whom he was the type could not see this; they would have been content to continue their policy of masterly inactivity, and could never have conceived or executed the plan, which was carried out in spite of their violent opposition by one who, though an aristocrat himself, had escaped at an early age from the stunting influences of his party, and exhibited to the Romans the first exception to that dead level of uniform mediocrity which characterised the generals of the Roman Government.

What the Senate wanted to enable it to manage this way

was a real leader, and that was just what all the traditions of their party rendered impossible; so they began the war with a series of blunders that very nearly cost Rome its existence. Their diplomacy was as rudimentary as their strategy; they proceeded in the stolid, unmethodical manner which had been found to suffice in their Italian struggles, and almost before they were awake to the fact that the war had begun, Hannibal was defeating their armies in Italy.

The mistake made in the former war of strictly adhering to annual change of command and avoiding re-election was not perpetuated. By continually securing the return of the same leaders, by extending the system of prorogation of command, and retaining the services of their Consuls and Praetors as Pro-Consuls and Pro-Praetors they ensured some sort of continuity. They showed too that they had learned the lesson of the first Punic war by their ability to carry on a scheme of operations simultaneously in many different directions. But though they deserved credit for what they did, their faults are none the less clear; from the beginning to the end of the war their selfishness and desire to shirk responsibility are apparent. The unconstitutional procedure of the Commons in 217 B.C. was rendered possible only because the Senate shrank from appointing a Dictator, and left him to be elected, and the Magister Equitum as well, by the people, though the Senate was looked upon already as the proper body to take the lead in emergencies. It is however in their dealings with Scipio that the Senatorial Government appears in its worst light. The circumstances of his selection to the Spanish command are uncertain; the Senate we are told saw the need of sending an extraordinary officer to Spain to prevent the recrudescence of Carthaginian power, and it was decided to leave the election entirely to the people. This action is in such contrast to the usual appointments that it seems almost impossible to avoid the conclusion that the Senate desired to keep their own favourite generals in Italy; Spain was distant, the nature of the country and importance of the war there were not understood; a general was wanted, and the responsibility for the Spanish war was thrust on to the people whom the Senate considered in-
Pro-Magistracies.
Avoidance of responsibility

competent to exercise free choice of a commander for the legions in Italy. There can be little doubt that Scipio was not a Senatorial candidate; he was of aristocratic family it is true, but his fascinating personality, his Greek culture, and his daring boldness were the very antithesis of the normal aristocratic type. This was the man who was destined to defeat Hannibal in spite of the Senate. He returned to Rome in 208 B.C., was at once elected Consul for 205 B.C., and determined to finish the war. He was the darling of the populace, and was regarded in consequence with little favour by the Senate. When he came back with a brilliant record of military successes such as no Roman general had ever gained before, and when he announced his determination of carrying the war into Africa. Now began the difficulties which a Roman general of originality and marked pre-eminence had to face, difficulties which all arose from the petty jealousy and exclusiveness inseparable from an aristocracy. The Senate can hardly have failed to see the necessity for an attack on Africa; the favourite generals could not drive Hannibal from Italy; the example of Regulus showed how easy it was to assail Carthage at home; but they shrank from giving up their old methods and still more from entrusting the command to one so different to their ideal as Scipio was. The peculiar excellence of Fabius had served the State well enough in its critical days when he had proved himself the only general who could avoid defeat by Hannibal, and that only by avoiding battle. A large army had been spared for operations in Sicily while Hannibal was at the height of his power; now the Senatorial party with Fabius at their head cried aloud at the danger of invading Africa, while Hannibal was penned up harmless in the South of Italy. The speech of Fabius in opposition to Scipio's plan is recorded by Livy; it is not authentic, but it is at least strikingly appropriate; it would seem that Fabius desired Scipio first to drive Hannibal from Italy, and then to follow and attack him in Africa. Every means was resorted to to thwart the Consul; he was charged with having said that if he could not get the Senate's consent to sail for Africa he would go with the consent of the people—by no means an unreasonable idea seeing that the Senate itself had allowed

Scipio and
the Senate.

this procedure in the case of his Spanish command. Their reason for all this opposition was their clear perception of the abilities of the man with whom they had to deal; they had been accustomed to direct, they were now bidden to look on; Scipio would allow no interference with his plans from the respectable nobodies of the Senate.

When further opposition was vain the Senate gave way, but here again they shirked all responsibility; they were ready to save Rome if a plan could be formed which would not interfere with their prejudices; they would incur no damaging responsibility for anyone who could not save Rome according to their receipt. They might have admitted the need of an expedition to Africa, have authorised Scipio to undertake it, have helped him loyally, and then have claimed a share of the credit. They did neither; they left the responsibility to him: they gave him the province of Sicily with permission to go to Africa 'if it seemed in the interests of the State to do so'; the forces they gave him were the two legions that had been disgraced after Cannae and kept in Sicily, with thirty-five ships, and permission to raise volunteers—a smaller force than they would have given to Fabius to watch Samnium. Fortunately for Rome, Scipio was a man not easily discouraged, with a firm belief in his own powers and an enthusiasm that nothing could damp. Volunteers came to him rapidly, and the generous contributions of the allies enabled him to build a fleet of thirty ships. His difficulties were not yet at an end. While he was making preparations in Sicily, his lieutenant was guilty of excesses at Locri, and Scipio in person crossed to Locri to settle the disturbances. News of this came to Rome and the outcry against Scipio, led by Fabius, began again; charges of all sorts dictated by personal spite were trumped up against him; Scipio wore Greek dress; the army was disorganised; the outrages at Locri were all due to this spirit of wild insubordination which spread downwards from the general through all ranks. One charge brought against Scipio is important as showing the tremendous power of the Senate in military affairs; they had given Sicily to Scipio as his province with permission to cross over to Africa if he thought it advisable: the commander of the Roman

forces was expected to confine himself exclusively to the province to which he had been appointed, and Scipio had left Sicily to visit Locri, and investigate the trouble caused there by his lieutenant. This was in distinct contravention of the usual practice, and Fabius actually proposed that, because Scipio had left his province without express orders from the Senate (*iniussu Senatus*), the Tribunes should be asked to bring an extraordinary bill before the people for depriving him of his command. Fortunately the proposals of the extreme party, which must have led to a struggle, were outvoted, and Scipio was allowed to conquer Carthage in his own way. And when his work was done there was no place for him in Rome; he had proved himself indispensable to Rome, and dangerous to the aristocracy. The Senatorial government rested on the unfailing loyalty of its instruments to Senatorial traditions; for over a century its chief aim had been to find servants who would obey it without question, and leaders whom it could follow without fear. Scipio did not fulfil these conditions and could not hope for employment by the Senate; he had once stood alone, and was too conscious of his own superiority to the Fabii and Fulvii of his time to sink to their level and become a mere tool of the Senate; and yet he was an aristocrat at heart; a personal and unconstitutional rule was not to his taste, nor did the position of a popular leader against the Senate allure him; and so the greatest Roman of his time ended his days in the obscurity of private life, because he was too great to fill the small niche that could be made for him. ...

Roman
revenue.

Another weak spot in Rome which became again apparent during the war was the utter inadequacy of its finances. In fact the whole financial system of Rome was that of a small city, and was utterly unsuitable for the position of a conquering state which Rome now began to fill. To understand the state of the treasury it will be necessary to examine briefly the chief branches of the income and expenditure of the State. The revenues of Rome fall under three main heads.¹

¹ Cf. Willems, 'Le Droit Public Romain.'

1. Vectigalia,¹ or Revenues of State property.
2. Tributum ex censu, the direct property tax.
3. Miscellaneous and extraordinary receipts.

1. *Vectigalia*.—There were several different sources from which the Vectigalia were derived in Republican times.

(1). *Public land in Italy*.—The usual practice of the Vectigalia. Romans was to deprive the conquered State of one-half of its land. This was dealt with in various ways:—

(a). Cultivated land for the most part was either sold outright by the Quaestors (*ager quaestorius*), or set aside by law or *Senatus Consultum* for a colony (*ager colonicus*), or divided by law or *Senatus Consultum* among the citizens (*ager assignatus*, or *viritanus*). In all these cases it became 'ager privatus' and the proceeds of sale went to the treasury. Occasionally it was let on lease for a definite rent, for periods ranging from one to one hundred years.

(b). Grass lands (*pascua*, or *ager scriptuarius*) were mostly kept for public use, the citizens paying a sum of money (*scriptura*) proportioned to the number of cattle they pastured on them.

(c). Uncultivated waste lands were mostly given up to 'occupatio' (*agri occupatorii*); citizens were allowed to take possession of them and farm them for their own profit; these holders of public land were called 'Possessores.' They did not acquire the ownership of the land, which continued to be vested in the State, and they paid one-tenth of the corn crops, or one-fifth of the produce of vineyards or orchards. This land was all administered by the Senate, and in the fourth and third centuries B.C. supplied the chief item in the income of Rome. But the administration was always notoriously bad and was conducted entirely in the interests of the rich Possessores;² moreover no proper check was kept on transactions concerning this land; it was sometimes treated by the Possessores as private property, was disposed of by sales and under testaments, till in many cases the title of the

¹ 'Vectigalia' is used in two senses: 1. *All* the ordinary branches of income. 2. A narrower sense: the income derived from *Ager Publicus*.

² p. 104.

State was hopelessly obscured—a result rendered possible by the exceedingly slipshod way in which the whole Roman financial system was managed.

(2). *Revenues of Provinces* (*Ager Provincialis*).—This varied with the different conditions in which the provinces were left. There were some favoured communities with which treaties were made (*civitates foederatae*), and of whose freedom from taxation was recognised in principle though not assured by treaty (*civitates liberae et immunes*); these were assimilated to the *civitates foederatae* of Italy; all owed military service, but were not taxed. The land of other communities belonged in law to Rome, and could be held by the provincials in quiritary ownership. In fact it was left to the provincials, and the dormant ownership of Rome was not otherwise asserted than by the imposition of taxes. The provincial land however was not all treated in exactly the same way.

(a). All the old royal domains (*agri regii*) in Sicily and subsequently those in Macedonia and Bithynia, and the lands of certain States that had been subdued by force, were kept as '*agri publici*' in the strict sense. Of the Sicilian lands part was given to the friendly States and kings, part was sold by the quaestors, part assigned to colonists and settlers. In these cases it became '*ager privatus vectigalis*'—that is the proprietor had the usufruct, the right to sell and bequeath and generally to treat it as his own private property, but as the Roman people preserved its ownership in strict law he had to pay a small tax to Rome.

(b). Most of the communities became '*Civitates stipendiariae*.' Rome gave back to them the land she had conquered, but the old proprietor ceased to be the '*dominus*': he had only the usufruct of it. In law the '*ager stipendiarius*' remained '*ager publicus*,' though the land was left to the former holders and the general tenure of property was not disturbed. But Rome imposed on those communities contributions varying in amount. They were paid either in kind (like the tithe in Sicily and Asia, *Vectigalia*) or in money (*Stipendia*). In the latter case it was either '*tributum soli*' a tax on landed property, or '*tributum capitis*,' a tax on the

or a tax so arranged as to fall on those who had no land, or even a poll-tax.¹

This branch of the revenue was of little importance during the second Punic war; only part of Sicily had come into the possession of Rome in 241 B.C.; Sardinia and Corsica were not very important, and the system of organisation was very incomplete. It is often stated that in later years the revenue derived from the provinces formed the chief branch of the Roman income; but it would seem that the only provinces yielding a surplus were Asia and Sicily.²

(3). Produce of State mines (*metalla*) in Italy and the provinces, most of which were leased to financial syndicates (*publicani*). This cannot have been of much importance till the Romans had extensive provinces. There were few mines of any value in Italy, apart from the gold mines of Aquileia.

(4). Sums produced by leasing fisheries in lakes and rivers.

(5). *Solarium*, the sum paid on the buildings erected on 'loca publica,' rent of buildings erected by the State (such as *tabernae*) &c.

(6). *Portoria* (*maritima* and *terrestria*), taxes on merchandise intended for sale, levied at the moment of entry into certain districts, such as on the frontiers; also duties on articles of luxury not intended for sale; or taxes on exports. These dues were levied for Rome both in Italy and the provinces, except in the cases of 'civitates foederatae' and the 'civitates liberae et immunes,' these communities being allowed to impose such dues for their own advantage. The amount of these dues under the Republic is obscure; in Sicily they were five per cent.; we hear also of two per cent. in Spain, and two and a half per cent. in Gaul. They were abolished for Italy by a Lex Caecilia in 60 B.C., but re-imposed by Julius Cæsar on all foreign merchandise, *i.e.* all imports from outside the Roman Empire. To these must be added the tolls paid for the use of certain roads and bridges.

¹ See Article on Vectigalia in Dict. of Antiquities.

² Cic. de Imp. Cn. Pom. 6. 14. 'Ceterarum prouinciarum (except Asia) uectigalia tanta sunt ut iis ad ipsas prouincias tutandas uix contenti esse possimus.'

Tributum. 2. *Tributum ex censu.*—This was based on the assessment made by the Censors. It was instituted at least as early as the times of Servius Tullius, and was paid by every citizen pater familias. It was a fixed amount, viz.—one tenth per cent., and a similar tax was laid on orphans, old men and unmarried women. It is said to have been abolished by the Patricians after the overthrow of the monarchy as a concession to the poor citizens, but was soon revived, in the case of *all the citizens* for the military pay, in the case of the ‘orbi’ and ‘viduae’ for the ‘aes hordearium,’ the maintenance of the ‘equi’ given by the State to the Equites. After the introduction of the principle of making the soldiers’ pay a direct charge on the treasury, it was only levied in time of necessity, when the other sources of revenue did not suffice; it was regarded as a loan and was repaid when the treasury was full. In severe crises the Senate could order the imposition of a double tax (duplex tributum). Originally this tax was paid to the ‘Tribuni aerarii,’ the paymaster of the Tribes, and they paid the soldiers of their own Tribe. But in the third century B.C. it was paid direct to the treasury (Aerarium). When the revenues from the provinces had increased, and the wars in the East brought large sums to the Roman exchequer, the Tributum was dropped, and Italy was practically free from taxation. It was never levied after 167 B.C.

Miscellaneous.

3. *Various and extraordinary.*—This source of income comprises such indirect taxes as the Vicesima Manumissionum, a tax of five per cent. imposed on the value of manumitted slaves by the Lex Manlia of 351 B.C., and taxes imposed from time to time by Censors on objects of luxury, &c.; produce of fines and confiscations; donations and legacies to the State, such as that of Attalus; contributions exacted from conquered enemies, and produce of movable spoil sold by the State. Of these only the last mentioned was important.

There is nothing to guide us in estimating the annual amount of the Roman revenue. Plutarch puts it at 200,000,000 sesterces before Pompey’s conquests in the East.

EXPENDITURE.

Expendi-
ture.

This falls under two heads :—

1. Imperium Domi, home administration.
2. Imperium Militiae, foreign and military administration.

1. *Imperium Domi*.—This comprised especially those sums of money spent every five years by the Censors on contracts for public buildings, &c.; also certain small payments to servants of the magistrates (*e.g.* clerks, lictors, messengers, &c.); food supplied to public slaves, and 'praemia' (rewards given to informers) &c. The main administration of the State cost nothing; no salaries were paid to magistrates, judges or priests. The building of public works and roads and their maintenance always constituted the chief branch of home expenditure.

Connected
with the
*Imperium
Domi*.

After the time of the Gracchi another great department was added, the administration of the corn supply (*Cura Annonae*).

Even before 123 B.C. the constant growth in the population of Rome, and the falling off in the cultivation of the country forced the Government to take steps to provide against famine by purchasing large supplies of corn at a low price in the corn-growing provinces and selling them in Rome; this did not involve any loss to the treasury, for it could be sold at a price far lower than that of Italian corn and still not fall below the price paid for it. But after the *Lex Sempronia Frumentaria* of 123 B.C., which introduced the monthly distribution of vast quantities of corn at six and a half asses the modius (one half the usual price), the burden on the treasury was considerable. In 78 B.C. the *Lex Octavia* restricted the number of modii for each citizen to five; but in 58 B.C. the *Lex Clodia* made the corn gratuitous, and every citizen living in Rome had a right to it. Cæsar limited the number of recipients, but still it amounted to as many as 150,000; Augustus again fixed the limit at 200,000, and had a definite list of recipients of the dole prepared. This department, the '*Cura annonae*,' belonged to the Aediles; Cæsar created two new '*Aediles Ceriales*' for this work.

Connected
with the
Imperium
Militiae.

2. *Imperium Militiae*.—The ordinary expenses under this heading were purely military. Originally they comprised only the money for the horses of the knights and their corn-money (aes equestre and aes hordearium), and the cost of equipment for the army, such as transport waggons and mules. The expenditure was greatly increased by introduction of State pay for the soldiers in 406 B.C. In the time of the second Punic war the sum was two-thirds of a denarius (about threepence) a day for the legionary, twice as much for the centurion, and one denarius for the cavalry who served with their own horses. It was paid in a lump sum for the whole campaign by the Military Quaestors. A year's pay amounted to 125 denarii and was raised by Cæsar to 225. To this must be added the expense of feeding the 'socii,' which was borne by the Roman treasury.

After the formation of the provinces certain sums were allowed to the governors for the expenses entailed by their command (*ornatio provinciae*) including the expenses of the voyage (*viaticum*) maintenance of himself and his staff (*frumentum in cellam*).

In addition there were all the expenses connected with the navy, *e.g.* warships, repairs, &c.

Allowances were also made to all ambassadors to cover their expenses.

The money allowed by the Senate for defraying military charges was paid by the Quaestor Urbanus to the Quaestors of the several Commanders. On returning to Rome the Commander and his Quaestor had to hand in their accounts to the City Quaestor.

The
Financial
Adminis-
tration.

The general supervision of the Finances lay with the Senate. This was the first department of the monarchical functions to be taken from the Consuls. When the treasury was placed in the hands of the Quaestors, much less important officers than the Consuls, it is clear that the influence of the Senate over the Treasury must have considerably increased; and still more was this the case when the remaining financial power of the Consuls, the preparation of the budget and census lists, and the general superintendence of ex-

penditure in the home department was given to the Censors, who came to be closely identified with the interests of the Senatorial Government.

The Senate had the management of the public land; they decreed what part of it should be left for 'occupatio,' and what part should be sold; they imposed the 'Tributum ex censu' when it seemed necessary, and decided on the sums to be furnished by the provinces. In every branch of financial administration they had supreme control; they could cancel any contract made by the Censors, and any expenditure on public works in the interval between two Censorships was arranged by them. They had an important check, in practice at least, on the home expenditure, for the usual practice was to vote the Censors a definite credit for public works; and in the same way they checked the foreign and military expenditure by voting definite sums for each Commander; further, all extraordinary expenditure was regulated by *Senatus Consulta*. In short, the Senate had the disposal of the treasury, and without an order from them the *Quaestors* could not pay out any money, except on the order of the Consuls or Dictator; these magistrates were in strict law not subject to the same restriction; but in practice there is no doubt that the necessity for the Senate's authorisation universally prevailed.

The Coinage was entirely under the management of the Senate, who ordered every issue and decided on all the details, size, shape, and weight of the coins. Generally the actual carrying out of the Senate's orders in this matter was left to an extraordinary commission specially elected by the people; after the social war a standing commission was appointed for this purpose, the *Tresviri Monetales* or '*Tresviri aeri argento auro flando feriundo*' (iii viri a.a.a.f.f.), the commission of three for coining and stamping money.

To meet emergencies the Senate took special measures; if it seemed needful they could reduce the weight of coins, or debase them by increasing the quantity of alloy. They could also decide to touch the reserve fund (which was always kept, though not sufficient to meet any great call), or sell any State property, or enforce the sale of necessities to the State

on credit, or raise a voluntary or forced contribution from citizens or provincials. These measures were extraordinary and were only justified by the emergencies of war.

The
Censors
and
Finances.

The servants of the Senate in finance were the Quaestors and Censors. These latter had important financial powers on their own initiative which are by no means clear; they could impose taxes such as those on luxury (*e.g.* Cato's in 183 B.C.). Their ordinary work consisted in arranging the State contracts for the collection of all the indirect revenue collected through the publicani, such as the Portoria, the provincial vectigalia for the most part, and the five per cent. tax on emancipated slaves; for the 'Ultro Tributa,' or the supply of all things needed for the different departments of the home administration (such as the ordinary small repairs of public buildings, &c.); and for extensive repairs or new public works.

The
Quaestors.

The Quaestors were purely clerks of the treasury, or general accountants; two of them had charge of the Aerarium Saturni (Quaestores Urbani), the remainder, originally two in number, were attached to the Military Commanders, and kept their accounts. They had no initiative in financial matters; they merely kept the State books and paid out money to the various magistrates on the order of the Senate, by whom they were also charged with other business arising from the general control of the finances, such as the sale of public land.

Inade-
quacy of
the Roman
finance
system.

A short consideration of the income and expenditure mentioned above will suffice to show how insufficient was the Roman revenue to meet any unusual demands. In the third century B.C. the ordinary income of the State practically consisted of the sums derived from the *ager publicus*. The whole system was adjusted to ordinary peaceful times. In the event of a war continuing for more than a year or two the Senate had to fall back on the *Tributum*; there was only a small reserve fund formed out of the tax on manumitted slaves which was kept for cases of extreme need, and in 209 B.C. this was used for the war; it amounted only to 4000 pounds weight of gold, about £160,000. It is manifest that the yearly budget at Rome left a very small balance in favour of the treasury, for Rome had received no less than 4200 talents

from Carthage since 241 B.C., about one million pounds sterling. Much of this no doubt went to pay off the deficits of the former war, or was otherwise absorbed, for at the very commencement of the second Punic war the treasury was in difficulties, and the Senate resorted to the expedient of debasing the silver and copper coinage, and issuing gold at a face value far in excess of the actual value of the metal.

The military expenses of the second Punic war were enormous; each legionary received about 1200 asses a year, and at one time Rome had as many as 23 legions on foot. It is hardly to be wondered at if, in these circumstances, Rome had a perpetual struggle against bankruptcy. After the defeat at Cannae a board of three commissioners was appointed to exercise general supervision over the finances (*Tresviri Mensarii*). Everything that patriotism could do for the treasury the Romans did; the wealthier soldiers refused pay, the owners of slaves manumitted by the State for bravery in the field (214) offered to wait for payment till the war had ended; the holders of the contracts for repairing public buildings continued their work on credit; voluntary contributions were frequent and by this means a fleet was built in 210 B.C. But nothing could help the treasury effectually; pay was in arrears, the soldiers were badly equipped and badly fed, the people were crushed by the burden of the property tax, corn was terribly scarce, for the best corn-growing districts of Italy had either been ravaged by the enemy or the cultivators had been drawn away to serve in the army. A proper use of the Carthaginian navy at this time might have turned the scale, and starved Rome into surrender; as it was the supplies imported from Egypt and Sicily were sufficient to prevent the distress from becoming unmanageable. Rome was never again in such financial difficulties as in the second Punic war; the conquests in the East multiplied the Roman income, and vast sums were brought back by the successful generals.

The Hannibalic war had a lasting effect on Italian agriculture. No one suffered so terribly in the war as the small farmers who formed the strength of the legions. The actual falling off in population through the awful slaughter in the great battles alone can only be approximately conjectured;

Economic
effects of
the second
Punic
war.

the total loss of the Italians is placed at 300,000, which is not far beyond the mark when we consider that over 100,000 fell in the three great battles at the beginning of the war, and that to this must be added the heavy losses in Spain, Sicily, Africa, and all parts of Italy during the whole seventeen years. The census of 220 B.C. showed a total of 270,000 Roman citizens, that of 204 B.C. showed 214,000, a decrease of over twenty per cent.; and that it was the substantial classes that suffered most is shown by the fact that in the year 216 B.C. there were no less than 177 vacancies in a Senate of 300. Italian agriculture never recovered from the blow dealt by this war; for thirteen years vast tracts of fertile country had been devastated; the small farmers had either fallen in battle, or had found themselves ruined and drifted to the city to swell the growing urban population, or had thrown in their lot with the army and entered on military service as a profession. In all cases the result was the same; when the war was over the small farmer was unwilling to return to his ravaged lands and to begin his laborious life over again; districts that had gone out of cultivation during the war were converted into large sheep farms, and became the property of rich landowners who employed slave labour to look after their estates. The tendency in this direction had already set in before the war, and the Agrarian measures already tried had all been directed to checking the decay of agriculture. Nothing could check it now; the small efforts hitherto made were all nullified by the Hannibalic war. With the decay of the small agriculturist went the growth of the city mob, who played so important a part in the politics of later years, and the rise of a professional soldiery, who followed the standards for the profit they could make and attached themselves to the fortunes of a particular general.

Effects on
the allies.

But the Romans were not the only sufferers; the Latin allies and the Italians who had remained loyal had borne even more than their fair share of the hardships of the war. The Latins especially were crushed by their terrible burdens, and at last even their loyalty began to waver; in 209 B.C. twelve of the Latin colonies gave utterance to their grievances; it would seem from Livy's account that in the crises of this war

the Latins had been asked for pecuniary contributions, which they had paid up to this year; Ardea, Satricum, Nepete, Alba, Carsioli, Sora, Suessa, Circeii, Setia, Cales, Narnia, and Interamna now refused to fulfil their obligations. The consternation caused by this was great; but fortunately for Rome the other colonies rose to the occasion and offered extra troops if they were needed. It is noteworthy that the rebellious colonies were those which had suffered least from the ravages of the Carthaginian army; the more distant colonies felt their very existence to depend on the safety of Rome, and stood loyally by her. Rome was helpless to compel the twelve colonies to change their tone, and the difficulty caused by their desertion is shown by the fact that in 207 B.C. Rome had to requisition contingents for the legions from the maritime colonies. It was not till 204 B.C., when the war was drawing to an end, that Rome was able to take retaliatory measures and punish the colonies; the magistrates and ten leading men of each State were summoned to Rome to receive sentence; they were ordered now to furnish infantry amounting to double the number of the largest contingents they had furnished during the war and 120 cavalry each, or in case of inability to raise this number of cavalry, three foot soldiers for each horseman. These contingents were to be despatched out of Italy wherever they were needed. Moreover they were ordered to pay a tribute of one-tenth per cent. on the assessment which was to be made at once and brought to Rome by the local Censors; this was to be carried out strictly on the lines of the Roman census, and no loophole of escape was left them. Prayers and entreaties were vain, for Rome was determined, now that the danger of the war with Hannibal was over, to assert her supremacy.

Among the Italian allies the Campanians and Bruttians were most severely punished; Capua as a city was destroyed; its territory, with the exception of the possessions of a few faithful citizens, became public land and was leased in small properties; the Bruttians lost most of their lands and became little more than public slaves. The same principle of confiscation was applied all over Southern Italy, the Greek cities which had joined Hannibal being treated with almost equal

severity; and precautions were taken to assure the subject position of the Italians for the future. Burgess colonies were planted on the coast, *e.g.* Valentia in the old town of Vibo, Sipontum and Croton; while Thurii became a Latin colony under the name of Copia.

It is estimated that no less than 400 towns were destroyed in this long war, and agriculture was ruined. It had been clearly proved during these sixteen years that Rome could import all the corn required, and the devastated lands never again came under cultivation. Prosperous agricultural districts became wide desolate sheep farms with the pastures tended by slaves, and the small farmer of Italy was doomed to extinction.

Provincial
Govern-
ment.

Another great feature of this period was the introduction of Provincial government. When the Romans had conquered the Carthaginians in the first war they found themselves left in possession of Sicily, and were faced by the problem of devising a system for its administration. Hitherto they had had only Italian problems to deal with, and they had succeeded in making Italy more or less of an administrative unit, the Consuls being supreme, and having as subordinates those Quaestors¹ who superintended the arrangements with the Italians and Latins; and this system was at first retained in the case of Sicily, and for a short time of Sardinia, which fell to the Romans in 237 B.C.; that is to say, they were governed by Quaestors under the supervision of the Consul. This system was given up ten years later, and in 227 B.C. two extra Praetors were appointed, one to undertake the government of Sicily, the other that of Sardinia, to which Corsica was regarded as an appendage. These Praetors were virtually Consuls, though of inferior rank; they had the Imperium, and held exactly the same supreme civil and military position in the transmarine province as the Consuls did in Rome; they commanded the forces stationed there, and were the chief ad-

¹ The 'Quaestores Classici,' established 267, after Italy had been conquered. They were charged especially with the defence of the coast, and had to see that the allies supplied the requisite contingents to the fleets. One was stationed at Ostia, a second at Cales, and a third at Ariminum. A fourth was now added and stationed at Lilybaeum.

ministrators and supreme judges; but like the Consuls in Rome they never had the financial administration of the provinces, and Quaestors were sent to manage the finances, and prepare the accounts for the Senate on their return to Rome.

There was then a certain parallelism between the methods of government in Italy and in the Provinces; but one great distinction existed from the beginning. The Romans, seeing no better way of organising Sicily, decided to leave existing methods as far as possible untouched. Now the Sicilian cities had paid taxes, either to the King of Syracuse, or to the Carthaginians; these the Romans left and applied to their own use, consisting of a tithe (*decumae*) of all agricultural produce, and a tax of five per cent. on all imports and exports, levied at the Sicilian ports. This was an important departure from the Roman system. Hitherto they had imposed no taxes on subjugated peoples; they had made treaties with them, levied contingents from them, and used them to support their sovereign position; now an entirely new principle was introduced; no contingents were drawn from the transmarine subjects, and thus the vital distinction was drawn between Italy and the provinces; the former furnished troops, the latter paid taxes. It is probable that in the beginning the Romans did not see where their innovation was leading them. They had only to deal with one small island, and had no conception of the vast transmarine possessions that were to fall to their share; the adoption of this method for Sicily itself was not due to any far-sighted plan, but merely to the accident that they found it already existing there. Subsequently, when other provinces were added to the Roman Empire, the organisation of Sicily was adopted as a pattern; taxation was universally imposed, and the system which proved so fatal to the well-being of the provincials, and so demoralising in its effects on the character of the Roman governors and officials, was everywhere adopted.

The fundamental idea of a Province then came to be an extra-Italian territory governed by a Roman magistrate and paying tribute to Rome, and as more provinces were added the number of Praetors was at first increased, for example

Distinction between Italy and the Provinces.

Growth of the Provincial System.

two more Praetors were created for the government of the two Spanish provinces formed in 197 B.C. Subsequently Macedonia, Africa, Asia, Narbo and Cilicia were added, but no new Praetors were created. The governors of those provinces were appointed by the Senate, who extended the Imperium of Praetors or Consuls for a second year, and sent them as Proprætors or Proconsuls to these provinces; so that the posts of supreme magistrates in many of the provinces depended not directly on popular election, but on the choice of the Senate, who found this a very valuable patronage to hold.

Evils of the System. The great evil of the system lay in the freedom of the governors from all effective control; the first governors of Sicily stepped into the position of the King of Syracuse in his relation to many of the Sicilian communities. The same applied to the provinces subsequently created, and the Roman governor in his arrogant behaviour and general tyranny resembled rather a Persian Satrap than a Republican magistrate. Extortion became the rule, and there were many opportunities for the Roman governors to enrich themselves at the provincials' expense. At first the government of the provinces was probably moderate and just; but the position of practical irresponsibility, in which the Roman governors stood, soon caused the growth of numerous abuses. The provincials themselves, appreciating the position in which they stood to their rulers, began the custom of presenting voluntary gifts to them; this in time came to be regarded as a necessary burden, and formed an important source of gain to the governors. Originally, the financial burdens of the provincials were restricted to the regular taxes, and consisted either of 'Decumæ,' tithe of agricultural produce, as paid by the Sicilians, or 'Stipendium,' a fixed sum of money levied in the different communities by their own magistrates and paid to Rome; but in the event of corn being specially needed, in case of scarcity at Rome, the governors had the power to demand that the provincials should collect 'alteræ decumæ,' a second tithe, which was called 'Frumentum Emptum' and paid for by the governor at a fixed rate. Further, there was the important 'Frumentum

in cellam,' corn for the maintenance of the governor and his suite, which was supplied by the provincials. A definite sum was allowed by the Senate for the purchase of this corn at a price to be fixed by arbitrators; but in all these cases where corn was bought by the governor, in spite of the regulations intended to secure the payment of a fair price to the corn-growers, great abuses grew up; either the money was never paid to them and went into the pocket of the governor, or some other form of trickery was resorted to for robbing the provincials. The past-master in this art was the notorious Verres, whose career in Sicily and manipulations of these corn purchases in Cicero's time are exceedingly instructive; for example a farmer might be called on to deliver corn at some impossible or remote place, so that the cost of carriage would be almost ruinous; the supply of corn was then commuted for a money payment at a valuation four or five times as great as the market price of corn. Moreover, the provincials were actually called on by Gracchus in 182 B.C. for contributions for the popular festivals in Rome. In every detail some plan of extortion was devised by the Senatorial governors, and the unhappy provincials, apart from their regular taxes and the demands of the supreme representative of Rome, were further burdened by the necessity of supporting and conveying from place to place all those who could on any possible grounds be regarded as travelling in the provinces on the business of Rome.¹

Such being the opportunities of the governors it would have been natural that the government, if they had any anxiety to look after the interests of the provincials, should institute a stringent system of general supervision, and call the offenders sternly to book for such injustices. But this was by no means the case. The general administration of the provinces early became an important branch of the Senate's work; the Senate appointed the governors, checked the finances, arranged the constitution of the province when

¹ E.g. the 'Liberæ Legationes.' Anyone whom the Senate wished to remove temporarily from Rome they would send on a free tour through the provinces, all expenses being paid by the provincials. This was called a *Libera Legatio*.

it was first formed. The taking of the census, which would have formed some check on the taxation, was extended only to Sicily; the other provinces were left even more to the tendermercies of the governor. In the event of any signal injustice the governor could of course be indicted at Rome; but no charge could be brought against him during his year of office, and consequently the mischief was already done before the remedy could be applied, and even then the remedy was a poor one. If the provincials brought a criminal charge, the prosecution had to be undertaken by a Roman magistrate with criminal jurisdiction, who brought it before the assembly; if a civil charge, the jurymen who tried the case were Senators who were in many cases looking out for a similar opportunity of filling their own pockets, and would not be too severe on one of their own order; and if the complaint failed, the unhappy prosecutors would pay a heavy penalty under the next governor. Moreover the very difficulties which naturally lay in the way of getting up the case must have told heavily against these prosecutions; witnesses had to come at great expense and trouble to Rome, and we can well imagine that the provincials would silently endure a very considerable amount of actual injustice rather than take upon themselves all the risks of instituting an expensive prosecution at Rome before a hostile jury, who had little sympathy with the provincials' grievances, and little knowledge of the workings of the provincial arrangements.

The
Governor's
Staff.

The government of the provinces by Praetors began with the creation of the new magistrates for Sicily and Sardinia in 227 B.C., and was extended to Spain in 197 B.C. Beside the Quaestors who superintended the finances the Praetors, Proprætors and Proconsuls who ruled the provinces took with them a certain number of Legati (staff officers) nominated by the Senate, of whom three were usually assigned to a Proconsul and one to a Praetor or Proprætor; to them the governors delegated any minor military functions, and their number was greater in the Proconsular province because the custom grew up of sending the Proconsuls to those provinces where military operations were likely to be necessary. Besides these there were the 'Comites,' the personal

entourage of the governor, appointed by himself, who served as his Consilium or board of advisers, and were maintained in the province at the State expense.

In addition to these official personages those provinces which paid 'tenths' (e.g. Sicily, and Asia after the time of Gaius Gracchus) were exposed to the extortion of the Publicani, the great financial syndicates of the tax-collectors, who bought up the indirect taxes for a large sum in cash, and then proceeded to make what profit they could out of the provincials. There would have been comparatively little danger in this system but for the corruption of most of the governors, who, so far from doing anything to check the publicani, aided their extortions on condition of sharing in the plunder.

In every respect the provincial system of Rome broke down; after 146 B.C. the Praetors generally found employment in Rome, and it was by the promagistrates that the provinces were administered. Everywhere disorganisation, corruption and extortion were flagrant; the favourites of the Senate were despatched after their year of office at Rome to a wealthy province with the tacit understanding that they should fill their pockets there; they had no special qualifications, no knowledge of the necessities of the provincials, and bad government was assured. The financial officers sent with them, the Quaestors, who ought to have constituted a check on them, were regarded as peculiarly dependent on the governors, and any Quaestor giving evidence against his superior was regarded as guilty almost of a breach of filial duty. Every year as a general rule the whole staff changed, and thus any continuity in the policy of the Central government in the provinces was impossible.

The Romans did not always make a conquered territory into a province at once; for example, Macedonia which was subdued in 167 B.C. did not become a province, that is to say it was not administered by Roman officials, till after 146 B.C.; and here we see the first recognition of the system of tributary subjects. The taxes imposed on Sicily had been intended primarily to pay the expenses of administration; Macedonia after 167 B.C. had to pay tribute though not placed under Roman government.

Formation
of a Pro-
vince.

In the formation of a province the Romans usually followed the same plan; the general lines of the organisation were laid down by resolutions of the Senate, and a commission of Senators was then sent to arrange the details on the spot. They formulated a 'Lex Provinciae,' a constitution for the province, which was generally known by the name of the president of the commission (e.g. the Lex Rupilia which arranged the affairs of Sicily in 131 B.C.). This Lex arranged the extent of the province, the status of the different cities, the taxation, the judicial system by which the provincials themselves were to administer justice, all the details in fact which could not be settled at a distance, by which the future local government of the province was to be carried on. These provincial regulations were generally marked by a fairly liberal spirit on the part of the Romans. The existing municipal systems were left alone as far as possible, on the principle that had hitherto been applied to the internal affairs of the Italians; this they did partly to leave the provincials a show of independence, partly to avoid any unnecessary trouble in governing their subjects. In the same way rights of property were generally respected, though the theory was strictly carried out that all the provinces were 'praedia populi Romani,' estates of the Roman people, that the land was all the property of Rome and could not be held in quiritary ownership by the provincials themselves. Thus when the Romans confiscated part of the land of any community and sold it, the purchasers, though practically the actual owners, still had to pay a small tax to Rome to indicate that the State still maintained its title to the actual ownership, and such lands were called 'Ager privatus vectigalisque.'¹

The Pro-
vincial
Communi-
ties.

The organisation of Sicily may be taken as a type; the Romans pursued generally the same system they had found so effective in Italy. Firstly, they isolated the various communities by prohibiting *Commercium*, and possibly *Conubium* among them, though as the power of Rome advanced they laid considerably less stress on this, and intercourse between the different communities was less strictly inhibited. Secondly, they put the different cities on different footings and so pre-

¹ See p. 190.

vented any community of interests. Moreover, though for the most part municipal freedom was respected, the constitutions were remodelled on the Roman pattern, that is to say the municipal power, as in the case of the Italian cities, was generally entrusted to an aristocracy.

Sicily was first actually organised by Marcellus after 212 Sicily. B.C., and the whole system was more carefully regulated by Rupilius in 131 B.C. after the confusion caused by the great Slave war. The judicial and financial system of Hiero (*Lex Hieronica*) was retained. At first Panormus was treated as the capital of the province; later the island was divided into two halves, the Eastern and Western, of which Syracuse and Lilybaeum were the capitals respectively, with a Quaestor residing in each, to collect the taxes, except those the farming of which was contracted for by the Publicani. Messina was admitted into the Italian confederacy; it became a *Civitas Foederata* and paid no taxes, but furnished a contingent to the fleet like the Greek cities in Italy. Five other cities (including Panormus and Segesta, the former the old capital of the Carthaginian province and the latter one of the first Carthaginian towns to go over to Rome) were especially favoured; they were allowed to keep their territory, and were acknowledged as independent and free from taxation, '*liberae et immunes*.' Seventeen communities forfeited their land, which was restored to them as a '*possessio*,' that is they received the usufruct but not the actual ownership of their land, on condition of paying the '*decumae*' for corn land and '*scriptura*' for pasture land; these towns which paid the tithes were called '*Civitates stipendiariae*.' In these the Roman governor had unlimited right of interference; but in the free and allied towns he had strictly no civil jurisdiction at all. Generally disputes between citizens of the same town were settled by the local magistrates according to the local laws; between citizens of different towns by judges named by the governor; disputes between a Roman and Sicilian by a judge of the same nationality as the defendant. In criminal jurisdiction the power of the governor was like that of a Roman magistrate under Martial Law; he decided such cases with the assistance of a '*Consilium*' composed chiefly of the

Roman citizens of the neighbourhood of the 'Conventus' (assize town), in which the trial took place. In case of condemnation the governor had power of life and death; but if the accused was a Roman citizen, right of appeal to Rome seems to have been allowed in some cases.¹ Lastly, the power of coining silver and gold was taken away from the Sicilian cities.

Spain.

The organisation of Spain under two Praetors (first appointed in 197 B.C.) was on much the same lines; the system of annual change of governors was even less successful here on account of the distance of the country from Rome, and the impossibility of becoming properly acquainted with it in the short space of one year. Most of the towns became tributary, and Rome, instead of keeping here the old Carthaginian system, the tithes and customs, which had been retained in Sicily, imposed fixed payments in money or kind in their place. The prohibition of coining gold and silver was applied far less strictly than in the case of the Sicilians, probably because of the greater distance of Spain and the difficulty of at once introducing the Roman coinage; but the Roman standard was adopted. Here too, the same plan of creating divergent interests was followed, and while the majority of the towns became tributary, Gades, Saguntum and Tarraco became allied states.

Originally then there were *two* main classes of communities in the provinces—

1. Civitates Liberae, free states.
2. Civitates Stipendiariae, tributary states.

Free
Cities.

1. *Of Civitates Liberae* there were two classes—

- (1). Civitates Foederatae, allied states, on the same footing as the Italian Allies in the second century B.C. They had a written foedus with Rome, which generally guaranteed them autonomy in internal affairs; e.g. they were allowed to coin copper, and sometimes even silver; they were quite free in civil, though restricted in criminal jurisdiction, and were exempt from taxation.

¹ See p. 446.

The treaty was offensive and defensive (ut eosdem quos populus Romanus amicos atque hostes habeant), and they furnished contingents.

- (2). *Civitates Liberae et Immunes*. These differed little from the above except in theory; they had no *treaty* with Rome, and had received their freedom and immunity from taxation by a law, or by decree of the Senate. Thus the continuance of their favoured position depended on the grace of the Roman people, while in theory a 'foedus' was only revocable by mutual consent. In practice the difference was of no account, for the Romans never had any scruples in cancelling such a treaty. These states were really better off than any others, for they paid no taxes, and, not being admitted to the Italian confederacy, they were not called on for contingents.

2. *Civitates Stipendiariae*.—This class comprised the great Tributary mass of the provincial towns that paid tribute, 'decumae' ^{Cities.} or 'vectigal' (tithe or payment in kind), or 'stipendium' (a definite sum of money). These were mostly conquered towns, which had not won the privileges of the above classes by a timely surrender. These towns comprised an endless number of different nationalities with different traditions; some of them, such as the cities in Sicily and Greece, had had a free government of their own, but the greater number in the later provinces (e.g. Asia, Cilicia, &c.), had known nothing but practical slavery. Generally Rome gave each state a *Lex Civitatis*, regulating its rights and duties, which was however liable to be perpetually changed by the governor's edict. No single definite type can be discerned. Many of these towns, for example those in Greece especially, and in Sicily, had magistrates, Senate, Comitia, and full civil jurisdiction; but even the most favoured were autonomous only in appearance. In the provinces, as in Italy, the subjects were always exposed to the encroachments of the central government, and these became more marked as time went on. Then

the local authorities came to act more and more as the assistants of the governor, under his supervision and responsibility; in fact every detail of life in these towns depended on him.

Jus Italicum.

In later years there came into existence another class of communities in the provinces, with municipal constitutions of their own. Apart from the colonies of Roman citizens (the first of which was Narbo founded in 118 B.C.), intended to Romanise the provinces, there gradually came into existence a number of cities with Roman or Latin rights, which were assimilated to the old Roman municipia and Latin towns of ancient Italy, except for the one important point that the soil was still the property of the Roman state, and as such was liable to taxation. But this mark of subjection could be removed in two ways, either by the granting of Immunitas to individuals, or by the conferment of 'Jus Italicum' on whole communities, after which the land could of course be owned in quiritary right ('ex jure Quiritium') by the possessors, just as much as if it were Italian soil. This Jus Italicum was not extensively found in the provinces till Imperial times, but Gaius Gracchus had it conferred on his proposed colony at Carthage, and later it was given to all the Cisalpine Gauls.

Weakness of the Provincial System.

The fundamental weakness of the Roman system of governing its transmarine possessions lay in the absence of an effective control; everything depended on the individual governor, and the Roman character deteriorated at least as much as the Greek under the influence of absolute, uncontrolled authority. The abuses that subsequently came into such terrible prominence did not exist from the beginning, but they soon grew up; familiarity with the opportunity of oppression rapidly produced oppression, and when once the Roman administrators ceased to shrink from injustice, they found everything tending to encourage them; they had almost absolute authority, there were no checks in Rome, they were confronted with a powerful financial class who intended to fill their pockets at the provincials' expense, and the governor had to connive at their operations.

even if he did not share the plunder himself; and so it came about that the system of provincial government, first adopted in Sicily more by accident than design, did untold harm to the subjects, and was scarcely less fatal in its effects on the governing class in Rome itself.

CHAPTER VIII

THE GOVERNMENT OF THE SENATE

Formation
of new
parties.

BY the time of the Hannibalic war the Republican constitution had reached completion. The last great measure affecting its growth was the Hortensian Law, which had finally determined the place which the assembly of the Plebs was to occupy in the State. All the struggles during which the constitution had been built up had originated in the fundamental division of the citizen body into Patricians and Plebeians; this distinction had been finally removed; there was no pressing question to form grounds for a new permanent party division, and for many years the Government and the opposition were merely divided on questions of temporary interest. But new parties were gradually forming; the Agrarian administration was always fertile in disputes, and before the second Punic war it seemed for a short time as if the State might split into two camps on that question. This possibility was removed by the great wars, during which the matter fell into the background; but the gradually spreading decay of the agricultural class was not arrested, and when the social struggle did break out it took the form of a revolution; for the efforts made by the reform leaders to carry their plans into operation necessitated simultaneously an attack on the supremacy of the Senate.

The Government
of Rome
an Aristocracy.

Polybius selects the period of the Hannibalic war for an estimate and description of the Roman constitution.¹ In accordance with the traditional method of such investigation, he finds in the Roman constitution a mixture of all the three normal types of Aristotle—Monarchy, Aristocracy and Democracy, represented respectively by the Consuls, Senate and Comitia; the fusion of the three being so complete that in

¹ Polyb. vi. 11.

Polybius' opinion, no one, not even a Roman, could actually decide which name to give the Roman constitution. It would seem that the political acumen of Polybius was somewhat blunted by the necessity of following on the lines that had become traditional with political theorists. The conclusion of Polybius can hardly be accepted; it is true that the Consuls were originally distinctly monarchical; they were the successors to the full power of the king; but this position they had long since lost; they had sunk to the position of the chief servants of the Senate; in the conduct of military operations alone they were left free. It is true that in theory their power had undergone little diminution; and in this sense alone the Consuls may be regarded as a monarchical element in Rome; but they were so closely bound up with the interests of the Senate, and this body had such abundant means of checking them if they tried to set its interference at naught, that a practical assertion of their theoretical rights was impossible. In fact the magistrates were the servants of the people and the Senate, and of these two powers the legal sovereign was the 'populus'; it was the 'populus' that made laws on the motion of a magistrate; but it is worthy of note that dispatches from foreign powers were addressed to the 'Senatus Populusque Romanus,'¹ as if the Senate and the 'populus' were partners in the supreme power at Rome. This conception lies nearer to the actual truth; but it is not correct to regard the Senate merely as the equal partner of the people; the Senate in fact was the predominant partner; and thus the Roman constitution at this time, though in theory a Democracy under the sovereign assembly of the people, was in reality an Aristocracy dominated by the Senate.

The power of the magistrates had been declining ever since the abolition of the life-monarchy. The Consuls, originally the single supreme administrative board, who had inherited the full Imperium of the king and the power of appointing subordinates dependent on themselves, had lost greatly in actual power; the lesser officials were appointed almost without exception by the community, and by 287 B.C.

Growth of
Senatorial
powers at
the ex-
pense of
the M
agistrates.

¹ *I.e.* S.P.Q.R.

the Consuls had lost the power of preparing the Census and choosing the Senate, as well as all police, financial and judicial functions. The very multiplication of the magistracies of course depreciated the power of the Consuls, who no longer stood alone above the level of their fellow-citizens. Then the magistrates newly-created from time to time to take over branches of the Consular powers, being of inferior rank to the Consuls, were naturally more dependent on the Senate in their sphere of action than the supreme Consuls would have been. Moreover the old idea of an 'Imperium' vested equally in each Consul and including every branch of official work, with no limits of any sort, gradually disappeared as Rome grew in importance and the administrative work became much more extensive; thus, while originally the two Consuls had stood side by side with full and equal powers, both able to undertake any piece of business in the State administration, it became the rule to divide the necessary work into two 'provinciae' (departments), one being assigned to each Consul; this was at first done by the Consuls themselves, and was intended to ensure greater efficiency in the administration; course of time this duty passed to the Senate, who determined each year what departments should be assigned to the Consuls and other magistrates. Nothing shows more clearly the subservience of the Consuls to the Senate and their change of position than the procedure in the appointment of the Dictator; originally this had lain with the Consul, but now the Senate could actually supersede the Consuls by appointing a Dictator, the Consuls being under the necessity of nominating the Dictator at the bidding of the Senate. Even in the case of the Dictatorship itself the old idea of absolutely unlimited power fell into the background, and without any actual change in the theoretical position of the Dictator the practice arose of appointing a Dictator for certain definite work, such as a religious ceremony; in this event the Dictator merely did the appointed work and then laid down his office. On all sides the Senate was strengthening itself against the magistrates, and the restrictions placed on re-election to the

various offices tended in the same direction, for they prevented any single citizen from acquiring a dangerous pre-eminence by repeated tenure of the supreme magistracy; but in cases of great emergency the Government was sufficiently strong and conscious of its strength to break through the checks it had itself imposed on the Consulship, and repeatedly to entrust the command of the armies to a general who had gained high reputation.

The most important magistrate in the State from the point of view of the Government was the Tribune. The power of the Tribunes had now extended far beyond its original limits. Intended at first to secure just administration of the law for the Plebeians and possessed of nothing but the 'Jus Auxilii,'¹ they had risen in power and importance with the rise of their order. The wide and undefined judicial powers they had at first gained had been limited by the Twelve Tables, but the recognition of the Plebis Concilium by the Valerio-Horatian Laws had strengthened the position of the Tribunes; they were no longer merely the presidents of an assembly tolerated 'de facto' in Rome; they had taken the first step towards their final position as State magistrates, which they attained in 287 B.C. When the Hortensian Law recognised the Plebs as equivalent to the Populus, the Tribunes ceased to be officers of the Plebs, and became State magistrates in the fullest sense of the word, capable of presiding over and submitting resolutions to an assembly that had the power of legislating for the whole Roman community. The growth of the Tribunician power had been gradual but extensive, not marked by any definite legislative enactments conferring greater powers; the Tribunate was not originally political, and it is impossible to say how or when the Tribunes began to extend to administrative acts that veto or right of interference which they had originally used to secure individuals from injustice. But from the year 449 B.C. we find them always leading the attacks on the Patrician Government, and capable, by a wide application of their power of veto, of virtually suspending all the business of the State.²

¹ See p. 64.

² Cf. state of affairs during the struggle over the Licinio-Sextian Laws.

The
Senate
and the
Tribunate.

What was the reason for the continuance of the Tribunate after the final triumph of the Plebeians? The objects for which it had hitherto been used, the protection of the oppressed, and afterwards the securing of political rights for the Plebeians, had both been attained; the very distinction of Patrician and Plebeian had politically disappeared; moreover it had been made abundantly clear in the earlier struggles that government in the face of hostile Tribunes was impossible. Why then did the aristocratic Government retain the Tribunate? They kept it because of that very power of veto in which the danger of the magistracy lay. Now that the old political struggle between the Patricians and Plebeians was over, and the traditional party distinction had ceased to exist, political bitterness was not likely to arise again for many years. The Tribunes had hitherto been peculiarly opposition leaders from the very nature of the case, for they were identified entirely with the Plebeian order. They had helped to secure political equality for their class; there was no reason why they should any longer be expected to be continually in opposition to the aristocracy. From very early times the Patricians had appreciated the value of the Tribunate, and the importance of having at least one of the Tribunes attached to their interests; many measures intended to relieve the Plebeians had been nipped in the bud by the veto of a Tribune in the interests of the governing class. On occasions they had stood together, and then the Government had been forced to give way; but these cases of unanimity were rare, and only possible when the Plebeians had been fighting for some great prize. Thus after 287 B.C. the Senatorial Government felt themselves secure against any violently revolutionary legislation initiated by the Tribunes themselves, while the veto of a single Tribune entirely precluded any possibility of an attack on the Government by the higher magistrates. It might possibly happen that the Consuls would endeavour to pass some hostile measures; in the Tribunate the Senate found their strongest defence against any possibility of disloyalty on the part of the magistrates of their own order.

The
Comitia.

The citizen body had now reached the height of its powers. Beside the old Comitia Curiata, whose functions

were purely formal, there were three other assemblies in Rome, all of which had absolute power of legislation, the *Comitia Centuriata*, the *Comitia Tributa* and the *Concilia Plebis*, of which the two last mentioned now began to lose all but the mere formal distinction. These three assemblies never clashed in their work; though they differed in name, and to a certain extent in organisation, they comprised for the most part the same citizen body. They divided the work of legislation; the Consuls were always regarded as the regular presidents of the *Comitia Centuriata*, and thus laws introduced by the Consuls and laws of an essentially constitutional nature were generally passed by the *Comitia Centuriata*. Praetorian laws came before the *Comitia Tributa* presided over by the Praetors. But the *Comitia Centuriata* was a much more cumbrous voting machine than the Tribe assemblies, and after the Hortensian Law the former had little to do with *Leges*, except of course the '*Lex de bello indicendo*' (the law proclaiming war) which was always passed there. From this time forth the *Concilium Plebis* was the chief legislative assembly in Rome. There was still some difference between the composition of the Centuriate and Tribe Assemblies, for the freedmen remained in the classes where Appius Claudius had put them, and a great advantage lay with the wealthier citizens in the *Comitia Centuriata*, till the reform between the first and second Punic wars; but in the Tribe Assembly all voted on an equal footing, and the preponderance lay with the freeborn freeholders of the rustic tribes, for the freedmen and non-freeholders, who constituted the city rabble which began to come into prominence after the Punic wars, were restricted to the four City Tribes and had little influence on the decisions of a full assembly.

The powers of the assemblies had been gradually growing since the foundation of the Republic. The people still elected their own rulers, and not only the supreme magistrates, but all the subordinate officials as well; and since the Senate was now filled by ex-magistrates the people exercised indirectly the right of choosing the Senators. The Assembly of Citizens alone could pass a capital sentence; they alone had legislative power, which was in theory freed from all checks.

Powers
of the
Comitia.

Generally they did not interfere in administration, except in the matter of declaring war; but on some occasions they asserted their right to do so, and openly exercised the sovereign power of the State which in theory lay in their hands; for example in 390 B.C. they cancelled the decree of the Senate which ordered the surrender of the ambassadors to the Gauls; in 217 B.C. they tampered with the functions of the Dictator and the Master of the Horse; in 232 B.C. Flaminius carried a measure in the assembly for dividing the conquered land in Picenum. Thus we find them, as the sovereign power in the State, interfering, though rarely, in general administration, war and finance. The exercise of their power was rare because their sovereignty was for the most part dormant, and this fact is of value as showing the general moderation of the people, and their recognition of their own unfitness to meddle with administration. In fact as the sovereignty of the assemblies became more assured, their actual importance gradually decreased, and their unfitness for their position became more pronounced. Originally the assembly had been truly representative of the Roman people; the citizens lived in Rome or so near the city that they could go to town and vote on any important question; the tribes were not unwieldy; they had local coherence and an organisation of their own which enabled the members of the various tribes to discuss matters beforehand, so that each tribe came to the assembly with its mind already made up. But with the rapid extension of the Roman territory, particularly after the numbers of the tribes had reached completion, and distant bodies of citizens were added to the existing Tribal lists, all the local significance of the tribe was lost; it became simply a list of eight or ten thousand members scattered over a wide district; no discussion within the tribe was possible before the meeting in Rome, and many of the citizens lived at such a great distance from the city that they never came to Rome, and the Comitia gradually ceased to be representative of the Roman populus. So that though the populus was the sovereign power in the State, government and administration by Comitia were impossible, and the final triumph of the Plebs in 287 B.C. which looked as if it might mark the

introduction of a Democracy as complete as that of Athens, heralds an era of aristocratic government so generally accepted, and so consecrated by use and wont, that the resuscitation of the dormant constitutional powers of the Comitia, and the insistence on the practical sovereignty of the people one hundred and fifty years later, was virtually a revolution.

There were several reasons why the triumph of the people was so soon followed by an exclusive aristocracy, and the chief reason is to be found in the Roman character. The ordinary Roman of this age was essentially a practical man; he was not a political speculator and theorist, nor an enthusiast cherishing an ideal of the divine right of Democracy; what he chiefly desired was material prosperity, maintenance of order and general security; he was perfectly willing to be governed so long as he was governed well; and he was not, like the Athenian, in a perpetual fever of apprehension lest anyone should encroach upon his sovereign power, and anxious to meddle in every department of State business; the Senate might usurp the power of the 'populus' provided only it assured him the prosperity he desired. This was the reason why all the great upheavals in Rome originated in social and economic, rather than political causes, even in the days when the Plebeians were on a footing of distinct political inferiority. The Roman populus was not the body to risk anything for a mere political ideal, or to indulge in the assertion of theoretical prerogatives which might prejudice in any way its material prosperity. As soon as they had gained their final triumph they voluntarily abandoned a position the burgess assemblies were not competent to hold, and left the administration of the State to other hands, maintaining themselves the ultimate sovereignty, dormant for the most part so long as they were well and quietly governed by those whom they set above themselves. In theory a Democracy, Rome was virtually ruled by the Senate, and the title which stood at the head of official dispatches to Rome, 'the Senate and the Roman people' as little represented an actual partnership of authority in Rome as the title of the power by which laws are made in England, 'The King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons in this Parliament assembled.'

Popularso-
vereignty
dormant.

The new nobility.

From the time of the Licinian Law there grew up in Rome a new nobility composed of the Consular families, Patrician and Plebeian. It has been already pointed out that the circle of Plebeian families which gained admission to the Consulate was exceedingly small, and, when once the nobility had formed itself, it took all possible precautions against the admission of new members. The Praetorship was regarded as conferring nobility equally with the Consulship, and the same applied to the Curule Aedileship, these three being strictly the Curule magistracies, as opposed to the lesser offices, the Tribunate and Quaestorship; for it soon became a rule that only ex-Consuls should be admitted to the Censorship. This Patricio-Plebeian nobility became almost hereditary; the Curule magistracies were kept in the same noble families, and the insignia which originally belonged only to the Curule magistrate himself came to be worn by all his family; for example the gold ring which belonged of right only to the Senator was worn by sons of Senators, and the purple border to the toga was allowed to be worn by sons of Curule magistrates. The existence of such a nobility was finally recognised by the separation of the orders in the Theatre in 194 B.C.

The nobility and the Government.

Not only did the third century B.C. witness the growth of a hereditary nobility, it saw this nobility get possession of the Government. This they achieved by their possession of the Senate. At the beginning of the second century B.C. there were every year two Consuls, six Praetors, and two Curule Aediles, making in all ten Curule magistrates; so that when the Censors came to fill the Senate every fifth year they found forty ex-Curule magistrates eligible. Some of these were already Senators; or there would have been no room for non-Curule Senators at all. At any rate the number of non-Curules was comparatively small. From the commencement of the Republic the Senate had been steadily gaining power, and it soon ceased to be a mere advisory council assisting the supreme magistrates; the positions were more or less reversed, and the Consuls, as has been already pointed out, became more and more the presidents of the Senate, executing their orders and voluntarily surrendering their general right of initiative. The very words used to signify

a resolution of the Senate are significant; originally it was called 'Decretum,' that is to say a magisterial decree on the advice of the Senate; later it came to be called 'Senatus Consultum,' a resolution of the Senate alone.

The new system of recruiting the Senate, introduced in 314 B.C., had been a great gain to the Senate itself. 'The Lectio Senatus' had ceased to depend on the caprice of the Consuls, and had, by the Ovinian Law, been transferred to the Censors, magistrates who were originally on a level with the Quaestors, but who came in course of time to be the chief pillars of the Aristocracy, and gained a prestige which belonged to no other magistrates in Rome. A provisional seat in the Senate was now granted to all ex-Curule magistrates; and when the Lectio Senatus came on the Censor was bound to formulate in writing his reason for not enrolling them. Manifestly then the Censors were virtually bound by a hard and fast rule; they could not omit any name or remove any Senator from the roll unless they had good grounds for doing so. But since the number of ex-Curules did not in an ordinary year suffice, there was room for freedom of selection, a grave danger if a hostile Censor were in power. So marked was the influence of the nobility on the elections that the Curule magistrates were generally of the noble circle, and of course every effort was made to ensure the election of aristocratic Censors, for the most part with entire success. Thus the Censorship was the chief weapon of the nobility, but they were never free from the dread that this weapon might be turned against themselves, and hence the bitter struggles that accompanied the candidature of a reformer like Cato in 183 B.C.

In addition to the selection of the Senate the Censors also had another function which was of great political importance, the 'Recognitio Equitum,' the review of the Knights. The Censors had been connected with the Comitia Centuriata and the arrangement into classes from the very institution of their magistracy, and no doubt the enrolment of the Knights had always belonged to them. In later times it became a matter of political importance. It was the custom to enrol the richest citizens in the centuries of Equites, and

The
Censors
and the
Senate.

The
Censors
and the
Knights.

to grant them the 'equus publicus,' the horse supplied by the State. Originally these equites were purely military—they constituted the Roman burgess cavalry; but for active service they were gradually supplanted by the 'Equites equo privato,' cavalry serving with their own horses, and the cavalry of the allies; and the possession of the public horse came to be more and more a privilege which was largely sought after by the rich nobles. At first the review of the Equites had been naturally of a military nature, and the retention or surrender of the public horse was determined by military efficiency. But as the knighthood changed and became a political privilege, admission to it, which depended on the Censors, came to be restricted exclusively to the noble Senators and their sons; so that the eighteen equestrian centuries were just as much in the hands of the nobility as the Senate itself, and rejection from the equestrian centuries, which was signified by the Censor depriving the Eques of his horse at the review, was held to be only justified by some flagrant act of a dishonourable kind.

Importance of the Censorship.

In the Roman constitution there is nothing more striking than the Censorship. Beside the above-mentioned powers they possessed an extensive 'regimen morum,' a moral Censorship over the whole community. This is seen in their powers of selecting and rejecting Senators and knights on moral grounds, and the moral authority vested in them for these purposes gradually spread till it embraced the whole citizen body. They were peculiarly the guardians of the *Mos Majorum*, national and traditional customs and morals; they punished in virtue of this power all acts of private individuals or magistrates that seemed to violate the *Mos Majorum*, and to harm directly or indirectly the moral or material prosperity of Rome, such as perjury, luxury, celibacy, wasteful administration of private property, neglect in the education of children, harsh treatment of slaves and the like. In order to prevent what they considered harmful they could issue edicts which were valid till the end of the 'Lustrum' (the full period of four years), and to which was given the name 'Leges Censoriae. Their methods of punishment were stringent in the extreme; they could impose special taxes (*e.g.* on articles of luxury or

celibates) to punish a whole class ; while against individuals they exercised the much dreaded 'Nota Censoria,' which not only brought moral disgrace on the citizen punished, but affected vitally his position in the State ; if he was a Senator, he lost his seat in the Senate ; if a knight, he lost his public horse ; if an ordinary citizen he was removed from the Tribal list (*tribu movere*) and entered among the 'aerarii,' those who had the passive citizenship, who bore all the burdens of citizens, but had none of the political rights. The 'aerarii' were still assessed for all taxes, and by way of a specially severe punishment, the Censors could even assess such men at twice the real value of their property, and so impose a very heavy pecuniary penalty on them. These sentences differed in several ways from those imposed by the courts ; the Censor was bound by no restrictions ; he was not bound to cite the guilty party to appear, or to hear his defence ; moreover his penalties could all be annulled by the succeeding Censors, and the assent of his own colleague was absolutely necessary.

Such was the vast power that was gradually concentrated in the hands of the Censors ; and it is typical of the Roman obedience to the powers they set over themselves that they should have invested an elected Roman magistrate with this unrestricted moral authority which could be used with such terrible consequences against themselves. The Censorship had risen from a comparatively unimportant post subordinate to the Consulship, to be the most venerable magistracy (*Sanctissimus magistratus*¹) in Rome, and in token thereof the Censor wore a full purple toga.

During the third and second centuries B.C. the Senate had almost entire control of the State ; the sovereign assemblies were for the most part passive, and the magistrates were its obedient servants. The reason for this attitude of the Comitia has been already discussed. Further, during the period 287-140 B.C. Rome was engaged in a long series of victorious struggles which continually gave a wider field for Roman enterprise ; the attention of the people was fixed on these distant successes ; the series of great triumphs served to hide the discontent that was growing in Rome ; and the long continuance of these

Supremacy of the Senate.

¹ Cic. pro Ses., xxv. 35.

wars played into the hands of the Senate, for only a permanent body could hope to successfully direct them. Nor must it be forgotten that outwardly the Senate appeared an exceptionally strong body. A permanent assembly always tends to gain in power when its functions are left so carefully undefined by law as were those of the Roman Senate, the more so when its members comprise all the administrative experience of the State, and owe their position ultimately to popular election. But the Senate's power was supported most effectively by the unwavering loyalty of the magistrates. The power of the Senate was strictly unconstitutional; it was gained by gradual usurpation. Theory and practice were everywhere at variance; there was no means of hindering complete resuscitation of magisterial and Comitial powers; the Senatorial government rested entirely on the quiet acquiescence of the Comitia and the loyal support of the magistrates; it needed only a feeling of dissatisfaction among the people, and a magistrate hostile to the Senate to take advantage of the state of affairs, and the edifice of Senatorial government began to totter.

Its powers had grown at the expense of the *magistrates*, owing partly to the creation of new magistracies and the consequent subdivision of powers, partly to the natural tendency of a permanent body to become more powerful than a changing college, partly to the expansion of Rome and the constant wars, which kept the magistrates busy and frequently absent from Rome during a large part of their year of office, so that there was no one but the Senate to act in a case of emergency. Moreover the important business of assigning the spheres of action (*provinciae*) to the several magistrates had passed to the Senate. It had also grown at the expense of the *burgess body*; for it had become increasingly difficult for all the citizens to come to Rome, and the representative nature of the Comitia had been lost. A good example is the procedure in the case of prolonging the military commands (*prorogatio Imperii*); originally this had needed the sanction of the people, now it depended entirely on the Senate. Moreover, it had come to be received as a general principle that no measure should be brought before the Comitia without the consent of the Senate (*Senatus Auctoritas*).

This Senatorial supremacy seemed well assured ; it was upheld by the nobles without exception, and by the people as well ; for the Romans were intensely conservative, and a man of a well-known family was always sure of success in the Comitia except in extraordinary cases.¹

The *Lectio Senatus* was generally the first business undertaken by the Censors. They began by reading out the last list, and then added the names of all those who were not Senators, but who had a provisional seat and the right of voting (*Jus sententiae*), that is to say all those who had held a *Curule magistracy* since the last *Lectio*. Next they struck off the names of all who had died, or suffered disfranchisement, or were deemed unworthy of a seat, and then filled up the vacancies. The full Senate contained about 300 ; but the number does not seem to have been definitely fixed. The new list was read out from the *Rostra*, the ex-magistrates being arranged in order of rank, the *Princeps Senatus* coming first, then ex-*Curules* and then *Plebeian Aediles*, *Tribunes* and *Quaestors*. The term '*Pedarii*' applied to a section of the Senate has given rise to much discussion ; it seems to have arisen from the fact that the Senators voted by going to different sides of the house (*Pedibus ire in sententiam*), and seems to mean 'those who voted' ; it has been assumed then that it refers to a certain class who voted, but could not speak, and Mommsen concludes that the original '*Pedarii*' were the '*Conscripti*' or *Plebeian* members of the Senate² who had no voice in the discussions ; but that after the *Plebeians* gained admission to the *Curule magistracies* the name was given to the non-*Curule* members of the Senate. There is however no authority for assuming that any class of Senators were denied the right of speaking ; in fact the very phrase '*perrogare sententias*,' used of the President when he called on every Senator in turn for his opinion, is strongly against it. Moreover it seems irrational that anyone should be allowed in

Constitution of the Senate.

¹ In this connection it is noteworthy that most of the early laws '*de ambitu*' (against corruption in the elections) were aimed at the non-nobles ; it was the nobles who passed these laws and the '*novi homines*' who bribed.

² See p. 48.

the Senate and at the same time forbidden to speak. Probably the term *does* apply to the non-Curule Senators, not because they had no *right* to speak, but because, the speakers being called on in strict order of precedence, they seldom had the *opportunity* to speak.¹

Presidents
of the
Senate.

The leading magistrates who had the management of the administration and who were mostly guided by the Senate's advice all had the 'Jus agendi cum senatu,' the right of summoning the Senate and presiding over the sitting; such were the Consuls, Censors, Praetors and Tribunes among the ordinary, the Dictator, Magister Equitum and Interrex among the extraordinary magistrates. But since the presidency of the Senate depended on the ordinary rules of precedence the usual President was the Consul. The procedure was regulated by no written rules till the time of Augustus. The ordinary meeting-place was the Curia Hostilia, sometimes the temple of Jupiter on the Capitol, but always a Templum or consecrated spot. No quorum was necessary, but the President had the right of fining those who were absent without due cause.

A sitting
of the
Senate.

The sitting began with questions and communications; then followed the Relationes, questions of the day; they were introduced by the President in general terms, no actual motion being necessary. The general procedure was exceedingly untrammelled by standing orders; a Senator when called on for his opinion might merely state his agreement with any preceding opinion delivered, or make a speech on any extraneous matter he pleased; unlimited license of speech was allowed and talking against time was a familiar device. After the discussion came the vote which was taken by a division (*discessio*). The *Sententia* as finally carried became a *Senatus Consultum* and was entered in the State records; if vetoed it was called a *Senatus Auctoritas* and entered in the minute book of the Senate.

It was in the important departments of Finance, Foreign

¹ See Appendix to vol. i. of Cicero's Correspondence (Tyrrell) where it is pointed out that 'Pedarii' merely=silent members, and does not denote any legal distinction at all.

Affairs (comprising Diplomacy and War), and the administration of the Provinces and Italy that the power of the Senate was greatest.

Finance.—The property of the community had been originally managed by the king, and this duty in 509 B.C. devolved on the Consuls. But in no other department was the action of the magistrates so quickly superseded as in this. The State chest was almost immediately entrusted to the Quaestors, who from the first were dependent on the Senate. Taxes (with the exception of those imposed by the Censors, whose financial powers are exceedingly uncertain) were only imposed by a law of the Comitia, invariably preceded by a *Senatus Consultum*; that is to say all proposals for new taxes first received the sanction of the Senate. In the same way the *Tributum*, the special war tax, could in theory be levied by the chief magistrate; but practically the decision as to the necessity for it lay with the Senate. The *Aerarium* was specially under the care of the Senate; except to the Consuls the Quaestors could make no payments without an order from the Senate, and to the Consul only when he was in Rome. The mint was managed entirely by the Senate.¹

Foreign Affairs.—All diplomatic relations were conducted through the Senate; the Senate received embassies from foreign powers and appointed embassies to represent Rome. In the matter of treaties the Roman general himself could grant a truce with conditions extending for one year, but he could conclude no definite treaty without the assent of the Senate; any permanent arrangements made by him on his own responsibility might be repudiated. The usual procedure was for the magistrate who desired to make a treaty to send a draft to Rome and the proposals were brought before the Senate; then, if they adopted his views, but not otherwise, the matter was referred to the Comitia. In early times the Senate and magistrates settled the terms of peace themselves, but later the practice arose of always getting them confirmed by the people. The declaration of an aggressive war had always lain with the people

¹ See p. 194 *sqq.*

reinforcements should be sent or not. Again since the prolongation of the command and the granting of a triumph depended on the Senate the generals were influenced largely by their wishes. Strictly a Dictator or a Consul could triumph without the authority either of the Senate or a plebiscite, but then he had to pay for it out of his own pocket.

In no department was the power of the Senate more important than in the organisation and government of the Provinces, which depended on them entirely. The constitution of the Province was at first settled by a series of *Senatus Consulta* confirming the 'acta' of the commander; later a new procedure was introduced and the details were settled on the spot by a commission of ten Senators who assisted the general. In short, the whole policy of Rome in relation to the Provinces depended entirely on the Senate. The Senate and the Provinces.

There were certain other powers held by the Senate which are worthy of note. They took the lead in colonisation; the usual procedure both for burgess and Latin colonies was a *Senatus Consultum* followed by a Plebiscite. They had no direct judicial powers, but in cases of oppression in the provinces the provincials had to tender their complaints to the Senate who decided whether a trial should be granted or not; in the event of a trial being allowed, if a criminal charge was preferred, the accused was arraigned before the people (*judicia populi*), or sometimes before a special court nominated for specific charges by the people (*judicia publica*, or *quaestiones extraordinariae*). Nor had they strictly any legislative power; but in cases of emergency, where the magistrate ought to consult the people and get a plebiscite, the Senate could free him from the necessity of doing so (*legibus solvere*). Other powers of the Senate.

It is clear, then, that the Constitution of Rome was a Democracy only in name; in fact it was a close Aristocracy; the Senate governed by means of its extensive administrative powers and was assured of its position by the lessened importance of the magistrates, the comparative nullity of the *Comitia*, and the loyalty of its subordinates. It was, of course, a cardinal point of the Senate's policy to prevent the Safeguards of the Senate.

Lex Villia
Annalis.

concentration of power in the hands of individual nobles like Scipio and Flaminius, and with this object the Lex Villia Annalis was passed in 180 B.C. ordering candidates to apply for the magistracies in a fixed order, and at fixed intervals, a practice perhaps already obtaining in custom. The terms of the law would seem to have been as follows:—

(1) Before holding any magistracy the candidate must have served in ten campaigns, or have offered himself ten times at the levy.

(2) An interval of a clear Biennium (two years) must elapse between the holding of any two ordinary Curule magistracies.

(3) A definite order was arranged in which magistracies must be held, Quaestorship, Praetorship and Consulship.

Whether any definite age was fixed for each of these offices is much disputed; in favour of this conclusion is the fact that all the ancient authorities define a Lex Annalis as a law fixing the age at which magistracies could be held (Lex . . . qua finiuntur anni magistratus capiendi).¹ It is quite certain that the age for the Quaestorship was the twenty-eighth year, for a citizen did not assume the 'toga virilis' till the completion of his seventeenth year, and ten years' military service would bring his age to twenty-seven before he could hold the Quaestorship. We know that after the legislation of Sulla the age fixed for the Praetorship was the fortieth and for the Consulship the forty-third year, and it has been concluded by many that these limits were arranged by the Lex Villia. Mommsen holds that no definite minimum age was laid down for any magistracy, but the 'aetas Quaestoria' was fixed at the twenty-eighth year because of the necessary ten years' military service preceding it, which was abolished by the law of Sulla in 81 B.C. Whatever were the actual terms of the law its general purpose and result was to define a fixed career for the magistrates, and so prevent anyone from acquiring a position of pre-eminence by extraordinary abilities at an early age as Scipio had done. Further, the law of 342 B.C. or

¹ Liv. xl. 44, and Paul. Diac., p. 27.

330 B.C. forbidding re-election to any magistracy, except the Censorship, within ten years, which had been allowed to lapse in 217 B.C., was strictly enforced again. The exception in the case of the Censorship was removed in 265 B.C. and re-election forbidden absolutely; and this was extended to the Consulship about 150 B.C. owing no doubt to the re-election of M. Claudius Marcellus for the third in 152 B.C.

One important constitutional change which was disadvantageous to the governing nobility marked the later half of the third century B.C., and that was the disappearance of the Dictatorship. The power of supplanting all the ordinary magistrates by reviving the full Imperium of the king had been a valuable resource of the Government from the earliest times;¹ but the Dictatorship like other institutions of Rome had gone out of date, and the events of 217 B.C. were sufficient to give it the death-blow. On one or two subsequent occasions it was revived on the initiative of the Comitia for managing some comparatively unimportant business; but the old Dictatorship '*rei gerundae causa*' (for war or general administration) finally disappeared, and the Dictatorship of Sulla had nothing in common with the early republican office but the name. The aristocracy however found a way out of their difficulty by investing the Consuls with the full power which the early Consuls and the Dictator had had. They passed what was called the '*Senatus Consultum Ultimum*' in these words—"videant consules ne quid detrimenti respublica capiat." This decree was held to be justified only by circumstances of extreme danger or necessity, and was held to give the Consul full authority to use at his discretion all the powers that were theoretically embraced by the Consular Imperium; that is to say it armed the Consul with the powers of a Dictator and was practically equivalent to a proclamation of Martial Law. It is uncertain whether this expedient was ever adopted before the time of the Gracchi, and it is quite certain that the democratic party always denied the right of the Senate to arm the Consuls with extraordinary powers by means of this decree.²

Disappearance of the Dictatorship.

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² See p. 325.

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Growth of
the oligar-
chic spirit.

The first half of the second century B.C. saw the decay of the Senatorial government. The causes of this decay were not obvious and were unnoticed by Polybius. Rome had passed through a great crisis, which had brought out all that was best in the aristocratic government, but had also clearly shown its faults; with the disappearance of all imminent danger the defects became more apparent and more real. There was a marked growth of oligarchic spirit; the circle of Curule houses became more and more exclusive, and great difficulty was experienced by a 'novus homo' in obtaining office,¹ no matter what his qualifications might be. There were exceptions; but these were generally due to the fact that the Novus Homo was supported by one of the great party leaders in the Senate, *e.g.* Laelius and Glabrio by Scipio Africanus, and Cato largely by L. Valerius Flaccus. The exclusion of the 'new men' was partly secured by the two laws against bribery, the Lex Cornelia Baebia in 181 B.C., and the Lex Cornelia Fulvia in 159 B.C. This greed for office was due partly to family pride, for eagerness for a triumph and general vanity were always characteristic of the Roman nobles; partly to the love of money, for high office and military command came to be regarded as primarily an opportunity for plunder. Down to the year 168 B.C. the Roman governors were comparatively moderate, though the march of Manlius Vulso against the Gallo-Graecians was already a scandalous example of a mere plundering expedition. But the period 168-146 B.C. was characterised by the most scandalous rapacity in the Roman generals, and Polybius who came to Rome in 167 B.C. specially notes the evil effects of the third Macedonian war on the Roman character. There were of course exceptions to this general rapacity and greed, the most notable perhaps being Flaccus, Cato, Sempronius Gracchus, Aemilius Paullus, and Scipio Aemilianus.

Deteriora-
tion in
personal
character.

In every direction there is visible a marked deterioration in the personal character of the nobles. Apart from the increase of luxury to which Tacitus calls attention² there are manifest the evil effects of conquest on the Roman character. The Romans had risen rapidly from a simple Italian people

¹ See Liv. xxxix. 41 on Cato's candidature.

² Ann. iii. 54.

to be the rulers of the greater part of the civilised world ; they found themselves in a position they were not yet fitted by nature or education to hold. For the most part they were ignorant and narrow-minded, purely Italian in their sentiments, and unable to appreciate the traditions and aspirations of those whom they were called on to govern. They had not sufficient education to profit by the art, literature and philosophy of Greece with which they were now brought into contact, though they readily assimilated all that was bad in the spirit of the Greek decadence. Everywhere the provincial governors abused the unlimited powers they found in their hands ; the nobles were utterly unfit for their position, and the misgovernment of the provinces became more and more glaring. A notorious case was that of Sulpicius Gallus in Spain ; he was guilty of shameful exactions and was impeached by Cato but was acquitted. So glaring had the abuse become that in 149 B.C. a Lex Calpurnia was passed instituting a permanent commission to try cases of extortion in the provinces (*Quaestio de Repetundis*). This was the first permanent Criminal Court in Rome. Unfortunately the jurors who tried the cases were chosen from the Senators, men of the same class as the accused governors, and hence any marked amelioration of the condition of the provinces was not likely to follow ; but the institution of this court suffices to show that the evil was manifest and admitted. It was not however in provincial administration alone that the deterioration in the personal character of the nobles was manifest. Their incompetence in war was equally striking, and notable examples of this were afforded by the three campaigns of the third Macedonian war and the cowardice and insubordination of the young nobles serving as 'equites' against Numantia.

Lex Cal-
purnia,
149 B.C.

Side by side with the deterioration of the Senatorial government went the deterioration of the burgess body. In consequence of the Punic wars, the farmer class had almost disappeared before the growth of large estates farmed by slave labour. The 'Plebs Urbana,' or city rabble, became increasingly prominent, and the elections fell more and more into their hands as the citizens in the rustic tribes ceased to come to Rome for the business of the

Deteriora-
tion of the
burgess
body.

Comitia. This state of affairs gave opportunities for the rise of Demagogism and the corruption of the rabble by the wealthy nobles. The State festivals superintended by the Curule Aediles were extended by the addition of 'munera,' shows given by them at their own expense; huge sums of money were spent on these, and they came to be regarded as a necessary expense for the Aediles; and hence the less wealthy citizen found it increasingly difficult to secure election.

Difficulty in the way of Reform. The Senatorial government was manifestly pervaded with rottenness; everything pointed to the necessity of a thorough reorganisation. The power of the Senate was not strictly constitutional; it could last only as long as the people allowed it, and until someone was found to revive the constitutional rights of the people and the magistrates, in the face of Senatorial opposition. Their rule lasted as long as it did, not because there was no party of Reform in Rome, but because those who wanted reform, and saw the evils of the government, were conscious that, if the Senate were dethroned, they could not put the Comitia in its place without fatal results. Hence the apparent hopelessness of reform and the loyalty of the magistrates were sufficient to preserve the position of the Senate.

Aelian and Fufian Laws. A fresh check on the Tribunes seems to have been introduced by the Aelian and Fufian Laws (about 153 B.C.)¹ the contents of which are quite uncertain. They dealt with 'obnuntiatio,' the power of hindering any business of the Comitia by the announcement of an unfavourable omen in the heavens; it would seem that henceforth every magistrate, non-Curule and Curule, had this right; if a magistrate

¹ See addenda to Commentary (Note II.), in vol. i. of Prof. Tyrrell's Correspondence of Cicero. He there, following Lange, holds that 'obnuntiatio' belonged to the Tribunes as well as Patrician magistrates; but the real reason why neither used the Auspices for political purposes, lay in the fact that the people as a mass were too religious to allow its being done. Though the learned might laugh, the multitude respected the Auspices too much to suffer them to be profaned. This slumbering authority was roused into full activity by the Lex Aelia and Lex Fufia (the latter confirmatory of the former), two Plebiscita passed

wished to interfere with the vote of the Comitia he announced 'se servasse de caelo,' that he had watched the sky and seen an unfavourable sign.¹ It is generally thought that by these laws the Concilia Plebis, as well as the Comitia, were made liable to this form of veto and that elections were excepted. Hitherto the Concilia Plebis (which were not preceded by any sacrifice) were not subject to this interference, so that the Patrician magistrates now received a power, which almost equalled the veto of the Tribunes, against the resolutions of the Concilia Plebis. There is no trace however of an extensive use of this power in the struggles that immediately followed; these laws probably merely legalised a power which already existed in practice, but was very sparingly used. The fact that the Senatorial rule lasted so long with no other checks on the Tribunate than those imposed by custom, shows how consistently the Tribunes on the whole supported the Senate during its period of supremacy.

The period of Roman history which followed the Punic wars is commonly regarded as the golden age of Rome; it was in reality far from being so. It has attracted attention and admiration, because Rome was for so many years free from all political struggles and disturbances. It was this apparent calm, this political immobility, that was the vital defect; the need for improvement and fresh legislation was crying; it was the difficulty of evolving a plan of reform that produced the appearance of political calm. The party of reform and opposition had already

Other
change

in the interest of the nobles (Cic. Post. Red. II. 'Subsidia certissima contra tribunicios furores'). Cicero also calls them (Sest. 56) 'Leges de iure et tempore legum rogandarum.' Lange conjectures that the Lex Aelia guaranteed the right of obnuntiatio to Patrician magistrates and Tribunes, and contained a clause forbidding its use at elections. The Lex Fufia ratified this, and to prevent attempts to carry legislative proposals at electoral Comitia, and so escape obnuntiatio, added a clause forbidding legislation at electoral Comitia.

¹ 'Obnuntiatio' was subject to one restriction. It could not be used by a lesser against a greater magistrate; *i.e.* an aedile could not make use of it to stop an assembly called by a Praetor or Consul. In the edict which the Consuls issued to summon the Comitia Centuriata were the words, 'Ne quis magistratus minor de caelo servasse velit.'

to the extreme policy of the ruling class, and who, though loyal for the most part to the principle of Aristocratic Government, were anxious to see reform of some of the most crying evils. In 147 B.C. the leadership of this party had devolved on the younger Scipio, who with his friends and supporters, Gaius Laelius, Publius Crassus and Appius Claudius, formed the famous Scipionic Circle.

Reforms
effected by
the Moder-
ates.

While the two opposing parties, the Optimates and Populares, were preparing for the struggle that was to come, it was left for this moderate party to endeavour to patch up the existing fabric of the State by small repairs which were powerless to arrest the rapidly spreading decay. These reforms as coming from a middle party could not be expected to be of a very thorough or far-reaching nature; but they serve to show that the Moderates saw clearly most of the evils of the existing system. None was more glaring than the shameful extortion practised by the provincial governors and the difficulty which their victims had in bringing the offenders to book; a humble effort to combat this evil was made in 149 B.C. by L. Calpurnius Piso, who was responsible for the institution of a standing judicial commission (*quaestio*) to try the offences of provincial governors. This did little more than show that the sufferings of the provincials were recognised at Rome; it had little effect in checking the oppression, for the difficulties of prosecuting a charge in the capital remained the same as before, and the jury was composed of Senators, who would in any circumstances be unwilling to convict one of their own order, and many of whom were themselves looking forward to the same opportunity of enriching themselves in the future.

Lex Cal-
purnia.

Ballot
Laws.

Leges Ta-
bellariae.

Another problem with which this party concerned itself was the corruption of the assemblies, by means of which the party of wealth and power always contrived to secure the exclusion of new men from office. Their panacea for this evil they found in the ballot which was introduced for elections in 139 B.C. by the Lex Gabinia. Two years later it was extended by the Lex Cassia to the judicial Comitia (*Judicia populi*) with the exception of trials for 'perduellio'; this law was violently opposed by the Optimates, and it was

by his vigorous support of this measure that Scipio incurred the bitter hostility of the governing party. The ballot continued to be a weapon of the Reformers; in 131 B.C. the law introduced it for legislative Comitia, and in 107 B.C. the single exception made

Cl. No.

as having originated from The Equestrian Centuries.

Author

The nobility had gained the Equestrian Centuries.

Title.

possessed in the Comitia sured to the Aristocratic ade them a more or less nobles. In 129 B.C. it was entering the Senate must is to say the Senators were Centuries, and though sons enrolled in them (and this om) there was still room for s, and this partial separation the way for Gaius Gracchus' Equites into an order dis-interests.

the measures were ~~good~~ themselves, but they were not sufficiently drastic. They tended to lessen the corruption that was pervading the administration, but did nothing to remove the graver evils, the most crying of which was the ruin of agriculture. The causes that brought about this decay were already in operation before the second Punic war; but it was the ravages of the Carthaginian armies in Italy that completed the destruction of the class of small farmers. The Reformers had long regarded the restoration of Agriculture as the chief problem to be faced; Flaminius had done what he could to this end in face of the determined opposition of the Senate; Cato had adopted a different method, and had used his influence to secure the founding of burgess-colonies in 184 B.C. and 183 B.C., and this for a time met with success, for till 159 B.C. the Census lists show a continual increase. But after this date there is a regular

was of little practical use; Inadequacy of these efforts.

The Agrarian Question.

falling off; the number dropped from 328,000 in 159 B.C. to 324,000 in 154 B.C., and to 319,000 in 131 B.C. This only shows how the Romans themselves were affected by the same causes were in operation among all the Italians, among whom the decrease must have been even larger in proportion as their number was far greater. Everything had combined to ruin the small farmer; the big landowners with their armies of slaves had supplanted the small yeomen who could no longer produce corn at a profit in competition with the cheap slave-grown corn and imported produce. His lands had been ravaged during the Hannibalic war and he had gone to swell the growing proletariat at Rome. There was no newly acquired public land in Italy to allot, and the old State domain had with the connivance of the Government been all absorbed by the great landowners under the old evil system of occupation which had been assailed in 367 B.C. The territory of Capua and the neighbourhood had been annexed by Rome as public domain land and leased in 211 B.C.; but this like all the other similar land was soon allowed by the Government to be 'occupied.' After one generation however the ownership was definitely resumed by the State, and it was let on lease for the benefit of the treasury in 172 B.C., and in 165 B.C. compensation was paid to the ejected 'possessors.'

The
Moderate
party and
Agrarian
Reform.

The moderate party was by no means blind to the state of affairs; about 140 B.C. the question was seriously taken up by the Scipionic Circle and Gaius Laelius formed a plan for reclaiming the domains which had been occupied and distributing them for the benefit of the farmers. Unfortunately the friends of Scipio dared not carry the matter through; they saw what a storm would burst when the advantages of the wealthy were attacked. The project was allowed to drop, and it remained for a younger reformer to make the attempt.

Agrarian
Law of
Tiberius
Gracchus.

Tiberius Gracchus in his Tribune in 133 B.C. brought in an Agrarian Law which was little more than a re-enactment of the Licinio-Sextian Law of 367 B.C. The State was to reassert its ownership of all land held in excess of the maximum then fixed, viz., 500 jugera, an additional 250 jugera being allowed for each of two sons, so that the

total amount held by one family could amount to and not exceed 1000 jugera. The land thus reclaimed was to be divided into allotments of 30 jugera,¹ and given to poor citizens and allies, such allotments to be heritable, inalienable, and subject to a small rent.² To provide against the possibility of the law becoming a dead letter like the law of 367 B.C., a commission of three men was to be appointed to carry it out, to decide in case of dispute what was public and private land, to confiscate and distribute, and to estimate the amount to be paid by way of compensation to dispossessed holders; for a fair sum was to be allowed for improvements made on the land.

Gracchus was not a demagogue, he was simply an Agrarian Réformer who tried to resuscitate an ancient law which had lapsed for over two hundred years. It was clear that something must be done for the farmers, and he probably had behind him a strong public opinion, and the full support of the able members of the Moderate party, such as Crassus and Metellus. The scheme was little different to that which Laelius had formed and dropped; and Gracchus himself had probably no idea of the opposition that he would meet with. The strength of this opposition soon showed itself; the wealthy landowners found their organ of opposition in the Senate, in whose hands lay the government of the State; so that Gracchus who had come forward as the champion of the farmers found all the powers of government arrayed against him. In the first place the Senate had gained the prescriptive right of being consulted beforehand on all measures that were going before the people. This power, which had no strictly legal justification, had been confirmed by the invariable practice of nearly a hundred years. In strict law the citizen assembly was supreme, and its will was final since the passing of the Lex Hortensia. It was this dormant sovereignty of the Comitia that Gracchus determined to

The Law
before the
people.

¹ The size of the allotments is nowhere definitely stated in the accounts of the Law. The Agrar. Law of 111 B.C. refers to lots of '30 jugera,' and it is generally thought that the reference is to the allotments of Gracchus.

² App. B.C. i. 9, 10.

rouse to life, as Flaminius had done in 232 B.C., and he took his bill before the people, only to be met by the veto of Octavius, one of his colleagues. Then began the struggle in which Gracchus showed his unfitness for the part he was playing, and the blunders that alienated from him the best men of the Middle party. Enraged by the dogged opposition of his opponents to a measure which he believed necessary to the salvation of Italy, he cut off the Compensation clause¹ from the bill, and when Octavius continued to impose his veto he submitted a proposal to the people that the Tribune should be deposed for venturing to oppose the true interests of his order. The assembly supported him, Octavius was deposed, and Gracchus himself with his brother Gaius and his father-in-law Appius Claudius were elected commissioners for superintending the operation of the law.

Unconsti-
tutional
procedure
of
Gracchus.

The law was carried, but at a terrible cost. Whatever may have been the merits of the original proposal, nothing but censure can be given to the means by which it was passed, which were a series of violations of the Constitution. By introducing the law direct before the people, Gracchus was guilty of a breach of the spirit if not the letter of the Constitution. He had a precedent in the case of Flaminius and the early methods of legislation, but the character of the Comitia, largely made up of the city rabble, was very different to the representative assemblies of the burgesses in early days; they were no longer fit to exercise sovereign power, and a universal recognition of this fact had helped the Senate to assure its position; the Senatorial rule was bad, but as a choice between evils it was better than a practical application of the principle of sovereign assemblies. However, even this act might have been forgiven; but the deposition of the Tribune could not be justified; this was a flagrant breach of the constitutional rule that no Roman magistrate could be deposed, no matter what he had done; even at the end of his year of office he did not forfeit his power, he voluntarily resigned (*abdica vit se magistratu*). This innovation of Gracchus was particularly unjustifiable.

¹ App. B.C. i. 11.

when applied to the Tribune. The only reason for the continuance of this magistracy after the complete equalisation of the orders was the possession of this power of veto, which was the one weapon in the hands of the government for combating proposals that were deemed hostile to the interests of the State. Once the precedent of deposing the exerciser of the veto was created, the government, whether Senatorial or Democratic, was powerless to hinder the passing of any project brought forward by one who could temporarily assure himself of popular support.

By this course of action Gracchus had thrown down the gauntlet to the Senate, and they were not slow to take up the challenge. For the moment they were defeated; the law was passed, and the assignation of land proceeded under the supervision of the commissioners. They intimated clearly that proceedings would be taken against the reformer as soon as his year of office had expired. Gracchus had taken the first step in revolution; his only safety lay in going forward and securing himself from his opponents by assuring his re-election for the following year, a proceeding expressly forbidden by the laws of 180 B.C. which were framed in view of such a contingency arising. To gain this end he was bound to bid still higher for popular support; the favour of the mob alone could save him, and to gain this he proposed that the fortune of Attalus, which had been left by will to the Roman people, should be used to provide suitable implements for the farmers who were receiving allotments. Other projects that formed part of his brother's scheme ten years later are attributed to him at this juncture, with what truth we cannot say. The elections came on, only to be checked by the veto of his opponents, and in the struggles that followed Gracchus with many of his followers was slain, and a commission under Popillius the Consul proceeded with ruthless severity against many of his adherents.

The fears which had caused Laelius to drop his scheme were realised. The plan of Agrarian Reform had ended in revolution and civil bloodshed. Yet in itself the measure had much to recommend it, and there is no greater argument in its favour than the support accorded to it in its early

Fall of
Gracchus.

Merits
of the
Agraria
Law.

stages by the best men of the Moderate party. In strict law the project was entirely defensible; the State had admittedly a good title to the public-lands, which it had never surrendered. Gracchus had the precedent of the Licinian Law before him, as well as the resumption of the Campanian domains in 172 B.C. Of course the law produced a great amount of hardship and injustice in individual cases. Much of the public land had passed from father to son in the same family for generations, just as if it were private property; it had been bought and sold, till in many cases the origin of it had passed out of view altogether. Now an extensive inquiry was to be undertaken by a commission of three men who had absolute power to decide finally what was public and private land, and many wealthy citizens would find themselves suddenly stripped of large parts of their estates, which they had perhaps acquired by purchase, without even the scanty compensation for improvements that had been at first proposed. But was there any other way of giving fresh life to agriculture? It would seem not. The Moderates had considered the question sympathetically and had come to the same conclusion; the only question was whether the end would justify the means, whether the attempt to restore artificially a class that was being ruined by the operation of certain economic laws would meet with sufficient success to justify the arbitrary sequestration of property that must accompany it. Italian agriculture was ruined by the growth of slave labour and imported corn; the new landholders, inexperienced in husbandry, could not hope to work their land at a profit; and to prevent any transference of it Gracchus made it inalienable. If the policy had been followed out to its logical conclusion, and the maintenance of the small farmers recognised as an essential to the well-being of Rome, the result must have been the saddling of the treasury with a large annual subsidy to keep the thousands of peasant farmers from bankruptcy. At any rate many of the best men in Rome believed that it was supremely necessary for the welfare of Italy that agriculture should be restored, and even if the result indicated above had followed, if an annual grant in aid

of agriculture had become necessary, it was no worse evil than an ever-increasing city rabble of State-supported paupers such as was called into existence by Gaius Gracchus. The disease was a serious one and needed a heroic remedy—it was at all events a recommendation of that remedy that it did not involve any legal injustice, or any breach of Constitutional Law.

The death of Tiberius Gracchus did not cause the failure of his Agrarian Law; the Senate were satisfied with the signal vengeance taken on their opponents; they did not feel themselves strong enough to repeal the Law. A special decree of the Senate ordered the Commission to resume its work; the place of Tiberius Gracchus was taken by Licinius Crassus, who died in 130 B.C. and was succeeded by Fulvius Flaccus, while the death of Appius Claudius made way for Papirius Carbo. The task was a delicate one, and even in the hands of moderate men it must have given rise to many complaints; in the hands of violent partisans it was the less likely to be carried out without considerable arbitrariness. At last the Commissioners turned their attention to the Italian domains, conquered lands that had fallen to Rome, but had been left in perpetual usufruct to allied communities, their rights being guaranteed in the 'foedus' defining their relations with Rome. This, whether justifiable in law or or not, was in the highest sense inexpedient; the maintenance of the Italian treaties was of vital importance to Rome; if the Commission were allowed to proceed in the matter of these lands the Italians might be driven to extremes; dissatisfaction on the score of their present humble position of subjection to Rome was already rife, and the spirit of the equal treaties was being continually violated; if the letter as well as the spirit of the Roman obligations was to be ignored, no one could tell what the result might be among the exasperated allies. In these circumstances the allies appealed to the Moderates. That party, which had by its support made the distribution possible, took up the cause of the allies, and Scipio procured the passing of a vote in the assembly taking the matter out of the hands of the Commission and entrusting it to the Consul Tuditanus, who at once set

The work
of the
Commis-
sion.

The Com-
mission
suspended.

off to Illyria. Thus in 129 B.C. the Commission was shelved; but a vast amount of public land had been resumed by the State and divided in small allotments, for the Census list increased from 319,000 in 131 B.C. to 395,000 in 125 B.C.; and it was not only the Roman citizens who had benefited. Gracchus had recognised the right of the Italians to a share in this distribution, and no doubt some proportion was observed in selecting the recipients from the two classes.

The
younger
Scipio.

The arguments that induced Scipio to prevent what seemed to be an indefensible breach of treaty right did not appeal to the more violent members of the Reform party; and Scipio paid for his interference with his life. The mystery of his death was never solved, but there can be no doubt that the guilt lay with the Gracchan party. No investigation was made; both the extreme parties were content to be rid of a man who put conscience and honour before party rancour and revenge. It was an evil omen for the future that secret assassination had again become a weapon of political warfare, and that the bitterness of faction which had only once before caused a similar crime should be revived after an interval of nearly three hundred and fifty years.¹ Moreover, it was the death-blow of the Moderate party. No one else came forward to act as mediator between the two extremes, and the Moderates might be pardoned for thinking the semi-judicial murders of the Senate a less dangerous weapon of political warfare than secret assassination.

Future
course
of the
Agrarian
Question.

The Agrarian Question as far as the public land was concerned was now almost laid to rest; Gaius Gracchus revived the Commission, but its work was done; there was no more land to distribute unless the Latin and Italian domain lands were interfered with. By the law of Drusus in 122 B.C. the lands already assigned were made rent free and alienable; in 119 B.C. the Commission was finally abolished and allotment stopped, and to prevent any future attacks on the big landowners all land still possessed in virtue of occupation up to the limit fixed by Gracchus was recognised as their rightful property, subject to a small rent

¹ The murder of Genucius in 473 B.C.

which was finally abolished by law in 111 B.C.¹ At the same time the system of occupation which had been so prolific of disputes was definitely forbidden for the future; any domain land henceforth acquired was to be let on lease, or to lie open as public pasture, and the low maximum of ten head of large cattle and fifty of small was fixed for graziers.

The position and rights of the Italian allies had now been brought prominently forward; hitherto neither party had taken up their cause directly, though Tiberius Gracchus had admitted them to a share in the assignation of land. It was their opposition which had caused the suspension of the Commission which the 'populares' were endeavouring to revive. There was only one way of getting round the plea on which they had retained their domain lands, and that was to make them Roman citizens, and so bring their public land under the same category as that of Rome. This plan has been attributed to Tiberius Gracchus himself on doubtful authority; it was now openly put forward as one of the main planks of the Democratic platform. The government met it by the law of Pennus in 126 B.C., which expelled all non-citizens from Rome, and this was followed by a counter-proposal of Flaccus next year for extending the franchise to the allies, and allowing the Jus Provocationis to those who were unwilling to surrender their existing status. He met with no support, and the collapse of the proposal caused the revolt of Fregellae, a significant warning of the temper of the allies.

For nine years the Democratic party was inactive; but in 124 B.C. Gaius Gracchus returned to Rome from his Quaestorship in Sardinia, where the government had tried to keep him by neglecting to appoint his successor. Everything seemed to point to him as the champion of the anti-Senatorial party, and his opponents made a last attempt to discredit him by accusing him of instigating the revolt of Fregellae. He was acquitted and elected Tribune for 123 B.C., and the struggle between the Senate and the Democratic party was renewed. But Gaius was not content to be a mere reformer like his brother; he entered the field with the fixed intention of

The
Italian
Question.

First
Tribune
of Gaius
Gracchus,
123 B.C.

¹ Probably by the Lex Thoria.

being revenged on his brother's murderers at all costs; he was a man of quick sympathy and ardent nature like Tiberius, but unlike him he had a strength of purpose and a self-control that were able to save him from the fatal blunders of an earnest but inexperienced politician. Gaius was determined to reach his goal in spite of all opposition, but not by the clumsy and unconstitutional device of deposing a hostile tribune. He had a wider view of politics; he meant to annihilate systematically the oligarchical Senate, to destroy its preponderance in every branch of administration. He was not a reformer drifting through the force of opposition and inherent weakness into the methods of a Revolutionist; he was a Revolutionist from the beginning with definite ends and well considered means; the supremacy of the Senate was to be destroyed; it was to be once more a Council to help the magistrates in administration and not a narrow oligarchical body governing the Empire entirely in its own interests and thwarting every scheme of reform. Rome was to be ruled by Gracchus himself and his successors, backed by popular support and resting their powers on perpetual re-election to the Tribunate, assisted by the Senate if it would mend its ways, or in defiance of it if it proved intractable.

Gracchus'
Laws.

It is impossible to determine the order in which Gracchus introduced his long list of measures; he was Tribune in two successive years; but there is nothing to show which laws belonged to the first and which to the second year of office.¹

¹ Mr Warde Fowler in an article in the *Classical Review* of July 1896, (Vol. x., No. 6), discusses briefly the much disputed and generally ignored statement of the epitomist of Livy, which follows the mention of the corn law and agrarian law: 'tertiam qua equestrem ordinem tunc cum senatu consentientem corrumpere, ut sescenti ex equite in curiam sublegerentur; et quia illis temporibus trecenti tantum senatores erant, sescenti equites trecentis senatoribus admiscerentur; id est ut equester ordo bis tantum virum in senatu haberet.' This statement is not confirmed by any other authority, and the difficulty of reconciling it with other accounts has led most of the commentators to ignore it altogether. Mom. Staatsrecht III. 530, regards this as Gracchus' earlier and milder plan of dealing with the constitution of the *Judicia*, which he

As to his first enactment there can be little doubt; for the one point needful for his scheme was a continual Tribunate.

A law was carried allowing the re-election of a Tribune; the actual terms of this law are recorded thus: if the number of candidates for the Tribunate was insufficient the assembly should be able to name anyone they pleased without any restriction. It can hardly be that these terms are correct, for the Senatorial party would surely have been able to produce the requisite number of candidates in order to hinder the election of Gracchus; but whatever the terms of it actually were, Gracchus certainly depended on the application of them for legal re-election. Among the other preliminary measures were two more laws framed

Re-election to
Tribune
legalise

afterwards abandoned. Mr Warde Fowler accepts this as partly sufficient. He points out that Plutarch attributes to Gracchus a *νόμος δικαστικός* for transferring the *Judicia* from the old Senate to a mixed body of 300 senators and 300 equites; though this implies only the creation of new *Judicia* and not of a new Senate, we find here the idea of amalgamation for a definite purpose.

Mr Warde Fowler thinks this law shows the true bent of Gracchus' statesmanship, in the first year of his Tribunate at all events. He did *not* wish to overthrow the Senate and dispense with it altogether. A distinction must be drawn between the Senate as a political institution and the Senate as the organ of a narrow social oligarchy. No Roman statesman ever thought of dispensing with the Senate as a political institution. Plutarch (ch. 6), describes Gracchus as working with the Senate. The real object of Gracchus was not to dispense with the Senate, but to make it a body with which a reforming statesman could work. The two obstacles to reform were the resistance of the selfish Senate and the caprice of a selfish *Plebs Urbana*; the former Gracchus wished to remove by this law, the latter by granting the *Civitas* to the Latins. These two laws were the two cardinal points of the true Gracchan statesmanship.

This great double project of reform failed, but it was revived. The younger Livius Drusus proposed to increase the Senate and extend the franchise. One half of this policy was realised as the result of the Social war; the other half Sulla found himself forced to adopt. The Senate was enlarged, but only when it was too late to find new and wholesome material for enlarging it. Finally, the greatest of Gracchus' successors, Julius Cæsar, increased the Senate to 900 and admitted provincials, while at the same time he made this reform run parallel, as Gracchus had intended, with a fresh extension of the *Civitas*.

Retalia-
tory mea-
sures.

expressly to revenge his brother's fate, — firstly, that magistrate who had been deposed by the people should be ineligible for office in the future; secondly, that any magistrate who had put a Roman citizen to death without regular trial should be put on his trial before the people. The former of these laws was aimed at Octavius; it was a purely personal measure and was withdrawn. The latter was of far greater importance; it was of course directed against the Commission which had prosecuted his brother's adherents with such severity, and Popillius who had conducted the enquiry went into exile; but it was of great importance from another point of view, as affirming that no Roman citizen could be legally put to death without sentence of the Comitia, and thereby impugning a dangerous right which the Senate claimed to possess. In early times the Senate had arrogated the right of appointing a Dictator in time of crisis; but since 217 B.C. the Dictatorship had disappeared, and the Senate thus lost a very valuable instrument in its place, however, they claimed and exercised the right of passing the *Senatus Consultum Ultimum*,¹ whereby they invested certain magistrates with dictatorial power in face of which the right of 'provocatio' lapsed. It is uncertain whether this Senatorial decree was passed before the death of Tiberius Gracchus, but there can be little doubt that the law of Gaius Gracchus was expressly framed to remove this dangerous weapon from the hands of the Senate; and it is certain that in later years the Democrats always contested this right and appealed to the law of Gracchus as the justification. In fact, this point was a matter of continuous dispute; even against Gracchus himself the *Senatus Consultum Ultimum* was passed and the prosecution of Oppidius for violating the law of Gracchus came to nothing. The whole question was raised afresh in the debates on the execution of the Catilinarians.²

Corn Law. After these preliminary measures Gracchus entered on his more serious work. He saw the difficulty of an attack on the Senate, and the weakness of his brother's position; it was impossible to hope for success with no other support than

¹ See p. 231.

² See p. 325 sqq.

that of a fickle populace, but it was impossible to succeed without them. Gracchus determined to bind them to him by some more tangible boon than an assignation of land, which could only appeal to the more energetic section of the community who were willing to work their small farms. He introduced a *Lex Frumentaria*, a Corn Law, instituting monthly doles of corn to the amount of 5 modii at 6½ asses (less than half the average price) to all Roman citizens who presented themselves at Rome and demanded it. It is obvious that this was intended to appeal specially to the city populace; the members of the distant rustic tribes would gain little by it, in fact it was a thoroughly demagogic proposal and hostile to Italian agriculture, for it made the importation of still larger quantities of foreign corn at a low price an absolute necessity for the Roman treasury. It was the first corn law passed in Rome, and such enactments were afterwards recognised as an indispensable feature of a demagogic programme; from this time dates the attachment of the city rabble and the freedmen, who had hitherto been regarded as supporters of the Aristocracy, to the Revolutionists.

With a view to still further winning the support of the people and at the same time relieving distress, Gracchus introduced several further laws. Firstly, a *Lex Agraria*, which merely revived the old Commission of three appointed by his brother; it had little effect, because practically all the available land was already allotted; it was merely intended as a counter-blow to the opponents of the Agrarian scheme. Secondly, a law for founding burgess-colonies at Capua and Tarentum, of which the latter alone came to anything. Thirdly, a law for founding a colony on the site of Carthage with full burgess rights. This is the first appearance of the idea of transmarine colonies, and the extension of the Roman franchise beyond the bounds of Italy. Lastly, in order to remove certain grievances arising from the system of military service Gracchus passed a *Lex Militaris*; by this law he confirmed the old rule, which had no doubt been often broken, that no one should be called out before the age of seventeen, and restricted the number of campaigns necessary before the citizen could claim exemption, a measure especially needful

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Agrarian Law.

Colonial Laws.

Lex Militaris.

now that the Roman armies were permanently kept up some of the provinces and a man might be kept with t colours for a long series of years. Another clause provided for the supply of clothing free of cost; another is said to have given Roman citizens in the army the right of 'provocatio' against the Commander; but this is open to grave doubt.¹

Gracchus
and the
Capital-
ists.

By these measures Gracchus gained the support of the mass of the people; but it was necessary to break up the party that had stood united against Tiberius, the party of wealth. To accomplish this Gracchus conceived the plan of detaching from the Senatorial party the great capitalists and speculators; in other words, of causing a permanent breach between the mercantile class and the Senatorial Aristocracy. He virtually created the Equites as a definite 'ordo' in the State, and determined to place in their hands the Law Courts, which had hitherto been under the control of the Senate who alone were eligible as jurymen. The name 'Equites' was originally given to the eighteen centuries of cavalry in the Servian organisation of the army; they were purely a military institution receiving a horse at the expense of the State. They were selected after 445 B.C. by the Censors from among the richest citizens between the ages of seventeen and forty-six; after reaching the limit of age for service they ceased to be enrolled among the 'Equites.' There were originally no definite qualifications for the Equites except personal efficiency; later these eighteen centuries came into the hands of the Senate;² they were filled by the Censors, who selected Senators, with few exceptions, and members of Senatorial families, and it was generally recognised that no one was chosen unless his property amounted to the minimum for the first class, that is to say 1,000,000 asses (or 400,000 sesterces) after the reorganisation of the Comitia Centuriata.

Equites.

The
Order.

At the siege of Veii we first hear of 'Equites equo privato,' horsemen who supplied their own horses; and Polybius tells us that in 235 B.C. there were 23,000 Roman cavalry available for service, of whom about 20,000 must have been 'Equites equo privato' recruited from the wealthier citizens who

¹ See 'Provocatio Militiae' (Greenidge) Cl. Review, x. 5. Also p. 446.

² See p. 222.

alone could afford to maintain a horse for service. the Equestrian order organised by Gracchus, which formed such an important political party in the later years of the Republic, was a great corporation of financiers and merchants. How did they come to possess the name originally borne by the cavalry? The transition seems to have taken place in the following manner. At a comparatively early date the Military and Political Exercitus became distinct, the army in the field ceased to correspond with the Comitia Centuriata, and this was especially the case with the cavalry; the Equites properly so called, those with the public horse, were less and less called out to serve in the field; their place was taken to a great extent by the 'Equites equo privato,' and to a still greater extent by the cavalry of the allies, on whom the Romans allowed the most expensive branch of the service to devolve; the Equestrian Centuries, composed of men of noble families, became a *political* institution, and if they went on active service at all they formed the general's staff. Now in early times the Equestrian Centuries comprised the richest men in Rome without any distinctions, many of them being Senators and at the same time merchants and financiers. But under the influence of Flaminius was passed the Lex Claudia by which Senators were forbidden to engage in any speculations¹ and were thus expressly excluded from the great financial companies that came into prominence with the growth of the Roman provinces. Thus all great mercantile and financial operations at Rome passed into the hands of the richest men at Rome who were non-Senators; some of these were no doubt Equites, all of them were men with the pecuniary qualifications needed for the Equites; and gradually the name 'Equites' was applied in the wider sense to all those who had the requisite property amounting to 400,000 sesterces. In 129 B.C. a law was passed excluding Senators from the Equestrian Centuries, and though sons of Senators and young nobles were still admissible, this measure no doubt increased the number of wealthy non-Senators among the 'Equites equo publico.' The term Equites then in the extended sense comprised at this time a wide-spread financial

¹ See p. 173.

A HISTORY OF ROME

corporation of about 30,000 well-to-do men, closely bound together by financial interests and the necessity of upholding them. Hitherto the moneyed aristocracy had generally stood by the Senate; they suffered as heavily as the Senators by the proposals of Tiberius Gracchus; but Gaius Gracchus saw the possibility of separating the two classes, and giving them a bone of contention that would suffice to keep them perpetually hostile. There was no real sympathy between them; the one party was entirely devoted to Finance, the other was incessantly employed in political feuds and coterie intrigues; in the provinces they often came into conflict, though the Senatorial governors were too often ready to forego their opposition to the tax-gatherers in consideration of a share in the spoil. The Equites were now recognised as a definite 'ordo'; it was probably Gracchus who conferred on them their insignia, the gold finger ring, the 'tunica angusticlav' and separate seats at the games which marked them off from the rest of the citizens, and gave them privileges which hitherto belonged to Senators alone. It only remained now to give this new order a definite duty to perform, a fixed place in the constitution; and Gracchus decided to give the Jury Courts to them, whence they got their first official name, 'Ordo Judicum.' The enactment was that the 'Albu Judicum,' the official 'list of judges,' should be composed of citizens who were non-Senators, freeborn and of Equestrian census, the young nobility being expressly excluded by the proviso that sons of Senators and men under thirty years of age should be ineligible.

Lex Acilia de Repetundis. About this time, and probably in connection with Gracchan legislation, was passed the Lex Acilia de Repetundis, the text of which is in part preserved, reorganising the standing Commission to try cases of provincial extortion which had been founded in 149 B.C., when an important innovation was introduced into the Roman legal system. The 'Judicia populi' criminal trials before the burgess assembly, were found cumbersome and unsatisfactory; one disadvantage was that the charge could only be brought by a magistrate who had the right of presiding in the Comitia Centuriata; a formal proclamation had to be made by him that he would bring the

offender to trial on a certain day (*diem dicere*) and the verdict and penalty were passed with all the formalities of a law. The innovation of 149 B.C. was to some extent an application of the rules of civil procedure to criminal cases; that is to say, the President of the court was a civil magistrate, the Praetor, and the case was heard before a bench of 'judices' selected by the Praetor. Before this court anyone might be an accuser, so that it not only simplified the old procedure, but gave new facilities for bringing forward the complaints of provincials. A few years later, in 142 B.C., a similar court was constituted to try cases of murder (*quaestio de sicariis*), the actual competence, procedure and constitution of each being clearly defined in the law by which it was founded. This innovation must have met with universal approval, and Gracchus probably extended the principle to other offences, amongst them being the corruption of jurors, while the Lex Acilia reconstituted the *Quaestio Repetundarum* in accordance with the new law about the 'judices.' Hitherto the juries had been composed of Senators, and the position was especially important in cases of *Repetundae*. It would seem that Gracchus' original plan was to create new Senators from among the Equites and select the jurymen from this composite body;¹ this plan was changed and the Jury Courts were placed in the exclusive possession of the 'Equites,' so that the Senatorial governors were to be left at the mercy of the financial corporations that exploited the provinces. There had no doubt been grievous injustice before, when a Senatorial jury would hardly be found to convict one of their own order; but Gracchus can scarcely have failed to see how fatal it must be to the interests of the provincials to place the ultimate control in the hands of the financiers and tax farmers, who looked to nothing but their financial interests; an extortionate governor would henceforth be sure of acquittal provided he allowed the 'Equites' as well to practice extortion; an upright governor who ventured to check them would be equally sure of condemnation; in fact the change placed a premium on misgovernment and subjected the provincials to a double system of extortion.

Result
of the Lex
Judiciaria.

¹ See note to p. 248.

Change in
the method
of Taxa-
tion in
Asia.

At the same time the opportunities of the financial power were extended; the 'Equites' had been set up as an or hostile to the Senate and entrusted with an important duty which the Senate were sure to endeavour to regain. For to advancement they might give their support to Gracchus for time; but it was not enough to ally them closely with the democratic party whose measures they, as the especial representatives of wealth, had every reason to fear. A further measure of confiscation on the lines indicated by Tiberius Gracchus might be proposed, and to indemnify them against any possible loss in the future, and to compensate for a loss already suffered, Gracchus bribed them by altering the system of taxation in the richest of the Roman provinces. The province of Asia had been organised by Aquilius in 107 B.C., and moderate taxes imposed in the form of fixed sums for each community, which were raised by the provincials themselves. This system was now abolished; extensive direct and indirect taxes were imposed, and the usual method of collecting them through tax-farmers was adopted as in Sicily and Sardinia, with this important distinction—instead of being put up to auction in the provinces, as was done in these two cases, so that the contracts were often undertaken by provincial companies, it was enacted that the taxes of the whole province should be leased at Rome, so that the provincials themselves were practically excluded. The general result was that Asia became the scene of most scandalous extortion; it was the richest of the Roman provinces, and no governor dared to check the tax-gatherers with the certainty of conviction by an Equestrian Court before his eyes.

Lex de
Provinciis
Consulari-
bus.

Change in
order of
voting
in the
Comitia
Centuri-
ata.

Beside these measures Gracchus passed a *Lex de Provinciis Consularibus*, which did not take from the Senate the right of assigning the provinces to the Consuls, but greatly lessened their influence by enacting that the provinces to be assigned should be selected before the Consuls were elected. Among numerous other laws relating to details in the constitution of which nothing definite can be said, Gracchus introduced an innovation in the voting of the Centuriate Assembly; the property classes were no longer to come one after the other.

according to wealth, but the centuries were to vote on each occasion in order determined by lot.

All these laws were passed by Gracchus in the Assembly ; Methods of Gaius Gracchus. the legal sovereignty of the Plebs, which had been resuscitated by Tiberius Gracchus, was used throughout by Gaius, without any protest being made as far as we know by the Senatorial party, who were compelled to quietly acquiesce in their own destruction. Nothing remained to them beyond such business as the leader of the people chose to leave to the lately supreme body in Rome. Hitherto they had conducted the general administration of the State ; their decrees were now replaced by Comitial laws, passed by the assembly on the dictation of the favourite of the populace. Provincial administration and Finance had been pre-eminently the Senatorial departments ; Gracchus had reorganised the province of Asia and saddled the Treasury with the Corn doles without any reference to the Senate at all. And not only had their powers been usurped for the time by the popular legislator, but their influence had been permanently diminished by the law regarding the Consular provinces. Moreover they found themselves now confronted by the great financial class, which they had hitherto regarded as a wing of their own party, but which was now in a position of open hostility and in possession of the Jury Courts. The annihilation of the oligarchical Senate was complete ; its place was taken for the first time by a single man, and Gracchus was virtually monarch of Rome so long as he could secure his re-election to the Tribunate. This was the weak point in his position. He had united the populace and the Equites, two naturally antagonistic parties, against the Senate, by heavily bribing them both ; his ascendancy depended on the maintenance of this coalition and a continuance of bribery unless he would run the risk of being outbid by an opponent. On this the Senate set its hopes and the opportunity soon came. In his second Tribunate Gracchus took up the cause of the Italians and supported the proposal of Flaccus for admitting the Latins to the full franchise and giving the Italian allies the rights that had previously belonged to the Latins. There was much to be said for this plan of recognising the claims

Gracchus and th Allies.

Proposals
of Livius
Drusus.

of the allies; but the Roman populace with characteristic greedy exclusiveness objected to the proposal as strong as did the regular opponents of Gracchus; the bill was vetoed by Drusus and dropped. Gracchus had alienated the mob, and the Senate saw its opportunity. Livius Drusus came forward to outbid Gracchus with three proposals—firstly, the abolition of the rent imposed on the new allotments by Tiberius Gracchus; secondly, the establishment of twelve Italian colonies, to each of which 3000 citizens were to be sent; thirdly, an extension of the *Lex Militaris*. Gracchus forbidding the flogging of allies by Roman officers. The first law was intended to win over those who had been bound to the democratic interest by the Agrarian Law; the second, which was never carried out, would serve as a marked contrast to the unpopular transmarine colonies of Gracchus; the third was a sop to the allies to console them for the disappointment, and show that the Senate did not fail to recognise their disabilities. The scheme was not a brilliant one, but it was successful; the fickle populace deserted Gracchus and he failed to secure his re-election for 121 B.C. The Senate resolved to follow up its success; early in 121 B.C. his transmarine colony scheme was attacked, and Gaius like his brother fell in the riots that now seemed to be an indispensable feature of Senatorial triumph.

The Legislation
of Gaius
Gracchus.

The legislation of Gaius Gracchus seems full of contradictions; he was desirous of checking the spread of distress and encouraging agriculture, and yet he created a vast pauper proletariat dependent on State support; he bitterly attacked Aquilius for his corrupt practices in Asia, and yet he saddled this particular province with a terrible burden of taxation and indirectly promoted extortion by putting the control of the governors in the hands of the mercantile class. The key to all these seeming inconsistencies and to all that seems unworthy in the legislation of Gracchus is to be found in his almost fanatical hatred of the Senate, and his determination to avenge his brother's death. His method of attack was forced on him by the strength of his opponents' position; his plan was to split up the aristocracy, and unite one section of it with the democrats. This could only be carried

through by an appeal to the material interests of each; he bribed the populace and he bribed the Equites to combine against the Senate, even though the bribery he offered seemed to nullify the very objects he professed to have at heart. So long as Gracchus himself was at the head of affairs it would seem that the government was directed with vigour; he went himself to superintend the arrangements for his new colony at Carthage; every department of State affairs felt his personal energy and influence. But his revolution was none the less prolific of evil results. He was a 'political incendiary'; he created a breach in the Aristocracy and left the two sections in a position that must make dissension permanent; he taught the mob to follow at the heels of any demagogue who was ready to buy their applause; he familiarised them with the spectacle of a single master, and left to the demagogues of the future, men with ideals far lower than his own, an alluring picture of success, if only they avoided plans that might, however desirable in themselves, offend the prejudices of the mob. Gracchus fell because he was too conscientious to be merely a demagogue; he tried to help the allies, and solve the most difficult problem that remained; this effort lost him the Tribune, on which his position depended; and his fate confirmed the lesson taught by the fall of Tiberius, that the Tribune was too weak a basis for a Revolution, and that to ensure success personal popularity went for little unless it was backed by armed force. Gracchus paved the way for the abolition of the Republic by dealing the rotten government of the Aristocracy a blow from which it never recovered, though for a few years it was bolstered up by Sulla, and by showing at the same time that among the existing institutions there was none to put in its place.

Though Gracchus had fallen the main points of his constitution were left untouched; the Corn-largesses and the Equestrian Courts the Senate was not strong enough to attack; but the transmarine colony at Carthage, the most admirable of all his plans, was set aside. This idea of transmarine colonisation constitutes Gracchus' greatest claim to respect; it provided an outlet for the population of Rome

Result of Gracchus' fall.

which could no longer be found in Italy itself, and it was the first step towards the drawing together of Italy and the provinces, and the spread of the Roman citizenship abroad, which were among the best features of the Roman Empire. In only one case was this principle carried out, and that was by the founding of Narbo as a burgess colony in the face of Senatorial opposition in 118 B.C.

Renewed
rule of the
Senate.

The Reform party was now left without a leader, and the control of affairs reverted to the Senate; for with the exception of the law regulating the Consular provinces Gracchus had not abolished by law any of the Senate's usurped powers of administration; he had merely reduced the Senate to a nullity by his own procedure, by reviving the dormant sovereignty of the burgess assembly. But the Senate had felt the insecurity of its position, and the measures proposed by Drusus, a palpable attempt to bribe the opposing party, are the first example of the Senate using the arts of demagogism. The Italian question remained for the time in abeyance; the allies, if disappointed in the reception of the franchise law, at any rate recognised that they were largely indebted to the Senatorial party for the security of their domain land, and were perhaps hesitating in their choice between the two advantages; for the acceptance of the franchise would mean the loss of their treaties, and their public lands would become liable to distribution. This question remained as a possible bone of contention for the future; but the Senate contrived to settle finally the matter of the Roman domains by the legislation of 119 B.C. and 111 B.C.¹ The feud with the Equites was allowed to slumber till the Senate should be strong enough to assail their position in the courts, but the feeling with which they regarded this monopoly is shown by the unsuccessful attempt of Caepio to restore the courts to the Senate in 106 B.C.

Corruption
of the
Senatorial
Govern-
ment.

If the government of the Aristocracy had been bad before, it was now infinitely worse; they were always in terror of another attack, and seemed determined to make all they could out of the power which they held on such insecure

¹ See p. 247.

tenure. The bitterness of political strife that had now begun produced a still more rapid deterioration in the character of the leading men, and with this there came an appalling increase in luxury and crime. Not the least of the evils was the marked reappearance of the coterie system and the family policy of the leading men; everywhere was bribery and corruption; 'novi homines' were kept out of office, for the Senate saw that a single hostile election might again mean their ruin. If the Democratic party suffered from the absence of a leader the same may be said of the Senate, for of their leading men not one appears to have had abilities that would have raised him above the ordinary level at any other period of Rome's history. The chief of the Aristocracy after the death of Gracchus was Metellus Macedonicus, and on his death in 115 B.C. Aemilius Scaurus succeeded to the leadership of the party. Scaurus is the true Senatorial type of the post-Gracchan period; by a great show of personal honour and uprightness he concealed the fact that he was an expert in the corrupt methods of his time; his influence was so great that Cicero says of him that 'the world was ruled by Scaurus' nod'; but if we inquire on what his reputation was based, or look for any sign of great achievements, we find that he did nothing but pose, and was fortunate enough to be accepted at his own valuation.

Nothing shows the rottenness of the Senatorial government so clearly as the operations against Jugurtha. At the very beginning of the war the Roman commander was bribed by Jugurtha to make a shameful peace. It was indignantly repudiated at Rome, but was renewed the following year by Albinus after his defeat. So scandalous was the whole affair that on the motion of the Tribune Memmius a commission was appointed to inquire into the matter, and Bestia and Albinus were exiled, Scaurus, who had been Bestia's legate, saving himself with characteristic skill by securing his appointment on the Commission that condemned his colleagues. Such a scandal could not fail to give strength to the opposition in Rome and a future leader was coming into prominence. Gaius Marius had been Tribune in 119 B.C. when he had carried

a law in the face of the Senate against corruption at the elections; in 115 B.C. he had secured his election as Praetor, and in 108 B.C. he was serving under Metellus, who was one of the few honest and capable Senators and was striving hard to remove the disgrace that had attached to the Roman arms in Africa. In 108 B.C. Marius returned and stood for the Consulship for 107 B.C., and the bitter opposition with which the Aristocracy opposed him as a 'Novus Homo' determined the course of his political career for the future. For this same year (108 B.C.) another man with no claims to aristocratic birth, L. Hortensius, had been elected Consul, a proof of the increasing power of the Democrats; but his election had been invalidated by a conviction for bribery and corruption. Marius was successful, and not only was he elected, but he was definitely entrusted by a decree of the people with the conduct of the war against Jugurtha. This was a direct violation of the practice of the Constitution; his appointment and the recall of Metellus were the outcome of party bitterness, for there was no other excuse for the recall of the Senatorial General who had retrieved the honour of Rome and restored order to the disorganised army. The new General proceeded with his task energetically, and at the same time introduced an entirely new organisation into the Roman army.

The Army
before the
reform of
Marius.

The old arrangement of Servius Tullius under which men were armed according to their place on the Census Lists, had long disappeared, together with the phalanx in which they had fought in early days. The front ranks were no longer composed of the richest and best-armed citizens; the phalanx arrangement was found too cumbrous, and a system was adopted which combined solidity with greater facilities for individual fighting. The legion was divided into three divisions of heavy troops, the Hastati, Principes and Triarii, to which were added the Velites, or light-armed; the troops were arranged in these divisions not according to their property qualifications, but according to their experience; the Hastati formed the front line and consisted of the youngest troops, in ten maniples of 120 men each, the Principes formed the second line, and were more experienced soldiers; the veterans (Triarii)

were kept as a reserve or third line, being also drawn up in ten maniples which contained only 60 men each, half the number of the other two divisions; the Triarii alone carried the long spear and were brought up to finish the battle. Thus the Roman legion consisted of 3000 heavy troops, with a definite organisation which was always adhered to, each of the three divisions having its proper equipment and place in the line of battle. Marius abolished all these distinctions; once a man was enrolled in the legions he might be put in any place in the field according to the discretion of his officers; all distinctions of equipment were similarly abolished, and the organisation of the army thereby much simplified; all carried the same arms, the 'pilum' for throwing and the short sword. The Maniple was abolished as the unit of the army and replaced by a larger body, the Cohort. This term had hitherto signified a detachment of allies of no definite number (*e.g.* Cohors Praenestina, the allied detachment raised in Praeneste), or a battalion composed of three maniples, one each of Hastati, Principes and Triarii, with its complement of light armed troops, *i.e.* a battalion detached for a special purpose. At the same time the full strength of the legion was raised from 4200 to 6000 men, divided into ten Cohorts of 600 each. The disposition was no longer made on hard and fast lines, but depended entirely on the discretion of the General, and the different standards which had hitherto belonged to the different divisions were replaced by the Silver Eagle, first given by Marius as the standard for the whole legion.

There was a political side also to his work.¹ Just as the cavalry had ceased to be composed of the wealthiest citizens, so the infantry had come to be drawn less and less from the better classes. In early days when the farmer was called out to defend his crops or repel a raid, it was only natural that the civic militia should be composed of the men who had property and that these should be willing to serve; but when Roman operations became more distant, the better-class citizens were naturally unwilling to serve in distant lands for a series of years, and as the middle class decayed there was a large

The new
army.

Admission
of the Pro-
letariate
to the
legions.

¹ Sall. Jug. 86. 'Ipse interea milites scribere, non more maiorum neque ex classibus, sed uti cuiusque cupido erat, capite census plerosque.'

Political
results.

number of men who were willing to serve for what they could make out of their service, but who were debarred because their property qualification did not reach the requisite sum of 11,000 asses. To meet these changed conditions the minimum had already been lowered from 11,000 to 4000 asses. Marius' great innovation was the abolition of the property qualification; any Roman citizen might volunteer for service, and the same principle was no doubt adopted by the allies in raising their contingents. This great change no doubt arose from military necessities, not from political motives; it was probably a difficult task in time of emergency to raise the sufficient number of duly qualified citizens; there would be no such difficulty when the large proletariat was made eligible, thousands of whom would be willing to volunteer for the prospects of successful campaigning. But the change had far-reaching political results; the citizen and soldier were no longer the same, and there grew up a large professional soldiery who spent their lives in the field, and who felt no longer the close attachment to all the institutions of the city which had inspired the old citizen-soldier whose head camp was the city itself and who alternated his service in the field with the performance of his civic duties at home. An overthrow of the constitution by the army against the will of the burgesses would have been impossible in the old days when the army in the field and the Comitia in the Campus Martius were identical, and when the majority of the soldiers were well-to-do citizens. The new professional soldiery formed a numerous body who attached themselves for the greater part of their lives to a successful general; for military purposes they had none of the defects of the old militia; but patriotism was replaced by *esprit de corps*, and attachment to their country's institutions by attachment to their general. Everything henceforth was ready for a military *coup d'état*; only the man was wanting; the work of Gracchus had shown the possibility of personal rule in Rome, his fall had shown that the support of the people alone was not enough. A new class was now created, whose word must henceforth be final; the new army of Marius furnished the only constituent still wanting for the formation of Imperial rule at Rome.

The Jugurthan war was not the only proof of the incapacity of the Government and its leaders. They failed to protect commerce; the seas were swept by the Pirates till Antonius occupied Cilicia in 104 B.C., and temporarily checked them; the terrible Slave Wars in Sicily showed them incapable of ruling the Provinces. Wherever the citizens looked, they saw their country disgraced by the failures and misgovernment of the Aristocracy, and in 105 B.C. the smouldering opposition was fanned into flame by the terrible defeat of the Roman army at Arausio; the aristocratic Caepio and the Consul Mallius (a *Novus Homo*) had carried their political bitterness into the camp; unwilling to co-operate even in face of the enemy they had thrown away the lives of 80,000 Roman soldiers. By the vote of the people Caepio was deprived of his Pro-Consular power and his property was confiscated; Marius and Fimbria, another 'new man,' were elected Consuls for 104 B.C. in spite of the fact that Marius was by law ineligible. The attack did not stop here; in the same year (104 B.C.) Domitius Ahenobarbus carried a *Lex de Sacerdotiis* which substituted election in the *Comitia* for co-optation for the priestly colleges; L. Marcius Philippus introduced an *Agrian Law* which was however defeated, and is chiefly noteworthy for the remark attributed to him on this occasion that there were no more than 2000 wealthy burgesses in Rome. Lastly, a direct attack was made on Caepio, the cause of the late disaster, by the proposal that anyone condemned by the people or deposed from office should forfeit his seat in the Senate ('*ut quem populus damnasset, cuius imperium derogasset, in Senatu ne esset*'). The matter was not allowed to rest there; the Democrats had found a popular scapegoat, and were determined to push their advantage to the utmost; not content with the unconstitutional deposition of a magistrate, and the confiscation of his property, for which there was no precedent since the expulsion of the Tarquins, two of the most violent Tribunes, Saturninus and Norbanus, proposed in 103 B.C. the appointment of a special '*quaestio*' to investigate the affairs in Gaul, and particularly the defeat of Arausio and the

Failure of the Government and attacks of the Opposition.

alleged embezzlement of the treasure of Toulouse by Caepio. After scenes of great violence, in which the Tribunes who attempted to use the veto were driven from the forum, the law was carried, and Caepio and his colleague Mallius were banished.

Alliance
of Marius
with the
dema-
gogues.

Saturninus had now become prominent as the leading demagogue of Rome. With the example of Gracchus before him, he saw the impossibility of relying solely on popular support. It was necessary to find some more trustworthy ally, and he turned to Marius and his army. The successful General had been brought into opposition with the Senate and its leaders on more than one occasion. He had been elected Consul for 107 B.C., had finished the war in Africa as Pro-Consul, and had again been elected for 104 B.C. in his absence, to save the North of Italy from the threatened invasion of the Teutons and Cimbri. In open violation of the law he was re-elected without appearing in Rome for 103 B.C., and by the support of Saturninus again for 102 B.C. and 101 B.C., in spite of the struggles of the Aristocracy. The victories of Marius not unnaturally gave additional strength to the party with which he was associated, and on his return to Rome he formed a coalition with the demagogues, the arrangement being that Marius should be Consul for the sixth time for 100 B.C., Glaucia Praetor and Saturninus again Tribune. The objects of this union of the leaders of the mob and the victorious General were sufficiently manifest to the Senate, and they used every effort to prevent their success at the elections ; but the Democratic leaders did not hesitate at murder to gain their ends, and the scheme was carried through.

Aims of
Marius.

Marius now had his chance of overthrowing the Senatorial Government, and it is customary to credit Marius with this plan ; it is even held that his military reform, which probably only aimed at increasing the army and facilitating the levy, was in reality a far-sighted political move, intended to make him independent of the favour of the populace whose fickleness had brought about the ruin of Gracchus. If this had really been his intention, his abdication after the fall of Saturninus is inexplicable. The true view of

the case is that Marius was a soldier and not a politician; of humble extraction and no education, he had a love of display, and a theatrical appreciation of the Consular insignia; his great aim was to keep himself at the head of the State and pose as Rome's greatest citizen. At the same time he felt an intense dislike for the Aristocrats who had tried to thwart his early career and never tired of showing their contempt for his humble birth. He was animated solely by a love of power, and the fact that he could get this only by joining the Democrats threw him into the hands of Saturninus. A perpetual Consulship was beyond a doubt what he desired, but he probably had no conception of the actual power this would confer on him. In these circumstances he might make himself ruler of Rome, for the continuance of office gave him the immunity which Gracchus had aimed at, and the union of military with civil power which the Consulship involved would have placed in his hands a power which Gracchus never dreamed of.

Had Marius been a statesman the work of Cæsar might have been begun two generations earlier. Marius had no prominent rivals to defeat; the Government was utterly feeble and discredited, and Marius surrounded by the glamour of his great victories was the foremost man in Rome. His great mistake lay in his dealings with the demagogues; instead of making them his tools, he placed himself in their hands; he had no tact, no conception of political manœuvring. Like many others who have reached a high place from a humble beginning, he thought that he was the idol of Rome and would have been surprised that it could be otherwise; he is not the only example of a great general whose martial exploits have gone near to being eclipsed by his political failures.

The first of the Apuleian Laws introduced in 100 B.C. by Saturninus was an Agrarian Law providing for the distribution among Romans and Italians of all the land North of the Po which had belonged to the Celts, but which had lately been in possession of the Cimbri, on the ground that by their defeat it had passed into the hands of the Romans. Secondly, a

His
political
incapacity

The
Apuleian
Laws,
100 B.C.

colonial law provided for the foundation of colonies in Sicily and Achaia ; to these Italians were to be admitted, and inasmuch as these colonies, and probably the settlements made under the Agrarian Law also, were to be burgess colonies, it was equivalent to a partial admission of the allies to the Roman franchise. All the actual arrangements connected with these lands were to be carried through by Marius himself who would thus have an excuse for permanently retaining his Consulship. Thirdly, the proletariat was won over by the lowering of the price of the corn doles to five sixths of an as per modius. These laws were carried with the now customary accompaniment of violence, in spite of the assurance of the Quaestor that the Treasury could not bear the strain imposed by the Corn Law ; moreover there was a clause attached to the laws whereby every Senator who refused to take the oath to observe them should forfeit his seat, and Metellus, the most eminent man of the Senatorial party, went into exile.

Fall of the
Opposi-
tion.

It was now that Marius began to show his incapacity.¹ He could not restrain his assistants, and he seems to have had little appreciation of their character. The violence and recklessness of Saturninus had naturally harmed the reputation of Marius in the minds of all quiet law-abiding citizens, for Marius posed as the leader of the opposition ; the moneyed class definitely took their stand with the Senate, for they knew not what might happen if Saturninus kept his power, and so for the first time since the legislation of Gracchus the Equites and Senate combined to meet a common danger ; finally a great number even of the proletariat were alienated by the favour shown to the Italians. The crisis was brought on by the demagogues themselves ; Saturninus stood for the Tribunate and Glaucia for the Consulship of 99 B.C., though the latter was Praetor and according to law a two years' interval was required. The usual methods were followed ; Saturninus was successful, and the Aristocratic opponent of Glaucia was murdered. This roused

¹ The story of Marius receiving the Democrats and the envoys of the Senate at the same time in different rooms is probably only an exaggerated version of his perplexity on this occasion.

the Government ; the Senate passed the *Senatus Consultum Ultimum*, and called on Marius to take the command against the enemies of his country ; a pitched battle was fought in the forum, the demagogues were driven to take refuge on the Capitol, compelled to surrender to Marius, and slain by the nobles in the Senate House where they were confined.

The fall of Marius was now assured. He had taken arms against those with whom he had lately been associated, and it was not likely that in the time of their triumph the Aristocracy should show any tenderness for the man whom they hated and despised as a parvenu, and who had supported the late attack of the opposition. Marius fell into obscurity at once ; he ceased to be an object of admiration to the democrats who regarded him as a deserter, or of fear to the optimates who had fathomed his political incapacity. He left Rome to avoid being a witness of the triumph of the Senate he had helped to bring about. Marius' line of action is by no means clear ; it would seem probable that he had dissociated himself from Saturninus and the extremists before the final outbreak of violence ; and it must not be forgotten that the authorities for the period are all hostile to him. He was in fact a useful but not a great general, and in the warfare of politics he was the merest tyro. His career after 101 B.C. was a succession of blunders ; he seems to have thought he could use the services of the demagogues and profit by their crimes without sharing the responsibility for them. It is at any rate to his credit that he took the honourable course at the end, even if it meant his political annihilation. He came back to Rome embittered by his fall and longing to revive his past glories, waiting for the tide that should again carry him to the head of affairs and, with his past experience of the consequences of a half-hearted policy, a far more dangerous man if opportunity should ever offer for taking revenge on his opponents.

Retire-
ment of
M

CHAPTER X

THE ITALIAN QUESTION

Temporary
Union of
Equites
and
Senate.

Lex
Caecilia
Didia,
98 B.C.

Judicial
scandals
and re-
newal of
hostility
between
Senate and
Equites.

THE year 99 B.C. was marked by a strong reaction against the Democratic party; Metellus was recalled, and the Apuleian laws were repealed. Moreover it seemed that the breach in the ranks of the Aristocracy which Gracchus had caused had now been healed, and that the union of Equites and Populares on which his constitution was founded had collapsed. The Jury Courts condemned all who had taken part with Saturninus with unceasing severity; even the possession of a statue of the demagogue was held sufficient to secure conviction. Lastly in 98 B.C. the Government passed the Lex Caecilia Didia, which was framed to prevent the possibility of suddenly introducing hostile laws to the assembly, and the usual democratic practice of passing a number of laws *en bloc* each intended to win the support of a different party. The terms of the law were,—firstly, that the interval of seventeen days (Trinum Nundinum) between the promulgation and passing of a law should be scrupulously observed; secondly, that Leges Saturae (mixed laws, or laws dealing with a variety of different matters in the same bill) should be invalid.

Unfortunately for the Aristocracy the union between the Senate and Equites was only temporary; it lasted just so long as their fear of the Democrats was strong enough to counterbalance their mutual jealousy. Gracchus had estimated aright the irreconcilable nature of the feud that would rise over the possession of the Jury Courts. In 95 B.C. Sulpicius Rufus attacked Norbanus on a charge of *Maiestas*; Norbanus had helped Saturninus to drive Caepio into exile, and a few years earlier this alliance with Saturninus would have decided the case against him; but in 95 B.C. he was acquitted because his victim Caepio was an enemy of the Equites. But a far

that Drusus proposed to add 300 Equites to the Senate and hand the Jury Courts to this new body is less probable; in the first place any such interference with the position and composition of the Senate would have set that body against the law from the first; the loss suffered by the admission of the Equites to half the power of the Senate would more than counterbalance the half control of the Courts; and further we are expressly told that the law was a *Lex Judiciaria*, a law regulating the Jury Courts, and it is unlikely that the law would have been preserved under this title if it really made such a radical change in the composition of the Senate. It would seem that a further clause was appended instituting a special *Quaestio* for the trial of 'judices' who were guilty of taking bribes.

itude
the
ate.

The law was intended to carry out Drusus' main object, the reform of the courts, and there is no doubt that at first a majority of the Senate, especially the respectable and more moderate party, strongly supported it; but the Senate as a whole was not to be relied on. There were not a few Senators who were anxious to support the Equites if any excuse could be found for doing so; they were quite willing to buy from the Equites the right to plunder the provincials, and had no reason to desire a purification of the courts. The leader of this hostile section was Philippus, the most notorious political turn-coat of his time; starting as a Democrat he developed into an Aristocrat with sympathies for the capitalists; and the end of his career was thoroughly in harmony with the beginning; he made terms with Cinna and then contrived after the fall of the Democrat to make peace with Sulla. With such a party opposed to him it was manifest that great care was necessary to avoid giving them a handle; any technical flaw was sure to be picked out at once, and Drusus by his procedure gave them the chance they were looking for. The powerful capitalist party of course offered a bitter resistance, and they could not be overcome by the Senate alone; it was necessary to bring a combination to bear against them, and just as Gracchus had united the populace with the Equites against the Senate, so Drusus had to unite the Senate and populace

a resolution approving the action of Drusus; but from this moment the party of Drusus continually lost ground, partly because his engagements with the Italians were becoming known, partly because of the energy with which his opponents fought under the Consul Philippus; for the party that was fighting for its money-bags and its ill-gotten gains soon began to weary the lukewarm Senatorial supporters of the policy of honesty and reform. The end came when Philippus got a *Senatus Consultum* passed nullifying the Livian Laws as a violation of the *Lex Didia* and as having been passed in spite of unfavourable auspices. Even this triumph was not sufficient; it needed the murder of Drusus to assure to the *Equites* the tenure of the Jury Courts which had been since their admission a hot-bed of corruption.

The
Italian
Question.

Everything else now fell into the background by the side of the Italian question. Since the end of the Hannibalic war the status of the allies had been changing for the worse. Socially the Italians had suffered from the same evils as the Romans; the small farmer had in many districts disappeared, and agriculture was in a precarious state; it was less this than the *political* inferiority, which was being continually accentuated, that caused the growth of discontent. As long as Rome had depended on the allies for the maintenance of her position, a system of moderation and superficial equality had been preserved; but after 200 B.C. the distinction between the ruling State and its allies became more marked. The '*Cives sine suffragio*,' a connecting link between the citizen and non-citizen, whose very existence seemed always to hold out the hope of a graduated preferment to the full citizenship, disappeared;¹ the inferiority of the allies was brought out even more strongly by the appearance of an entirely new class, the '*dediticii*,' who had been degraded from the position of allies till they were little more than public slaves, deprived of municipal freedom and the right of carrying arms; the punishment of Capua and other allied towns, justifiable perhaps in fact, and salutary as an example, showed how the idea of 'allies' had become merged in the idea of 'subje'. Further, very many of the *Foedera* with the allied states

¹ See p. 163.

been disadvantageously revised, and even where no actual change had been made, the aggressive superiority which Rome assumed must have more than counterbalanced the municipal freedom which most of the Italians still enjoyed. Latins and Italians alike had grievances; they had to furnish far more than their share of troops; they were chosen for all the worst service; they received far less than their share of the largess and conquered lands. Hitherto the Latins had had certain rights of migration to Rome; these were now much restricted¹; as early as 187 B.C., 12,000 Latins were summarily expelled from Rome in consequence of the complaints of depopulation of the Latin cities, and ten years later a Lex Claudia was passed renewing the provisions of this law. Perhaps the greatest grievance of the Latins was that they had ceased to increase; all the colonies founded after 183 B.C. were burgess and not Latin colonies; hitherto the Latins had grown side by side with the Romans; now Rome was strong enough to stand alone and further increase of the Latins was stopped.

Discontent arising from political disabilities and specific acts of brutal oppression by Roman magistrates in Italy was naturally increased by the failure of agriculture which involved the ruin of so many of the Italians. Their cause was first taken up at Rome by the Democratic party, at least to a limited extent; Tiberius Gracchus recognised their claims so far as to admit them to a share in the land allotments, and the operations of the Commission were finally stopped because they began to interfere with the domains granted by treaty to the allies. Hitherto there had been no hint of giving the franchise to the allies; but from this time forward the scheme was continually being mooted. The cause of this seems to be that the Democrats were bent on obtaining the Italian domains for division, and this was felt to be impossible so long as the treaties endured, that is so long as the Italians continued to be allies. Whatever were the views with which the Democrats took up the Italian cause, the Optimates were from the first opposed to any concession, and the hints at 'universal franchise' were

¹ See p. 164.

promptly met by the law of Junius Pennus in 126 B.C. again expelling allies from the city. The first definite proposal was made by Fulvius Flaccus and supported by Gaius Gracchus in 125 B.C. to the effect that the allies should receive the Roman citizenship; and further that the rights of appeal secured to the Roman citizens by the *Leges Porciae*¹ should be extended to the allies. But the populace was just as unwilling as the Senate to see the advantages of the Roman franchise extended to the allies; the law was vetoed and dropped to the satisfaction of all parties; but the revolt of Fregellae showed very clearly the serious nature of the allies' demands and the length to which many of them were prepared to go in the struggle for their rights.

The claims of the Italians now became even more pressing and Gaius Gracchus was prepared to satisfy them. He proposed the admission of the Latins to the full citizenship, and the conferment of Latin rights on the Italians, but no party would support him, and again an edict was passed expelling non-citizens from Rome. The Senatorial party however thought it advisable to make a show of conciliatory measures, and Drusus passed his law forbidding the scourging of allies by Roman officers on service; but generally the policy of the restored Aristocracy was hostile to the Italians, though it guaranteed them their domain lands. It was the recognition of the fact that the acceptance of the Roman franchise meant the surrender of their domains that prevented an earlier outbreak among the allies.

The Apuleian Laws revived to some extent the projects of Gracchus. No mention was made of granting the franchise to the allies; but the admission of them to the burgess-colonies meant the enfranchisement of a considerable number and was the first step towards the complete equalisation of Italy. When the Democrats fell the Senate and Equites came into line, and the popular party, deprived of the help of the Equites, was reduced to impotence. The Aristocrats could now follow a bolder line; there was no longer any reason to coquette with the allies, and the policy of the Government became one of marked hostility; to such an extent was this

¹ See p. 446.

hostility carried that in 95 B.C. the Consuls passed a law expelling from Rome any non-citizen convicted by a quaestio of having wrongfully usurped the rights of a citizen, and forbidding any non-citizen under threat of a heavy penalty to apply for the Roman citizenship in the future. This law (called the Licinio-Mucian) is noteworthy because it was passed by Licinius Crassus and Mucius Scaevola, two of the most honourable of the Moderate section of the Optimates. Hitherto there had been little to attach the allies to the Reform party; the people were as much to blame as the Senate for the failure of the previous laws; the latter at any rate had defended their domain lands against the attacks of the reformers and had even shown them some little favour. But the bitterness of this last blow forced them to give up all hope of redress from the Government and attach themselves finally to the Reform party. They found a champion in Drusus. It seemed at last as if their longings would be realised and their grievances listened to, when a young reformer came from the Senate with all the best of the Aristocratic party behind him. The fate of the Livian laws and their author has been already described. It would seem that the Franchise Law was never actually brought before the people; it was a conclusive proof of the futility of trying to get the franchise by peaceful means that a mere hint of this law was sufficient to ruin all the other schemes on which a considerable section of the Senate seemed to have set their mind. Drusus was accused by his enemies of having been at the head of a secret Italian league pledged to obtain the citizenship by any means. As to the truth of this statement it is useless to enquire; it was probably merely a false charge spread by the opponents of Drusus to justify their extreme measures; but from the suddenness and completeness of the outbreak, which immediately followed throughout the length and breadth of Italy, it is probable that for some time, possibly since the law of 95 B.C., the allies had been making secret preparations for combined action, if their constitutional efforts failed. The death of Drusus found them ready for the struggle while the Romans had no idea of the seriousness of the situation, and only

exposed their ignorance and annoyed the already exasperated allies by instituting on the proposal of the Tribune Varius, a special Commission, composed of Equites, to enquire into the treasonable correspondence of the party of Drusus with the Italians who were now in arms. Many of the Moderate party were driven from Rome at this critical time when Rome needed all her ability to preserve her existence, and even the old Senator Scaurus had another experience of the Equestrian Courts and with difficulty secured an acquittal.

The Social
War.

The outbreak at Asculum had scarcely been announced when nearly all Central and Southern Italy was up in arms. It was a war of the middle and farmer class; it was in the districts where agriculture still flourished that the flame of rebellion burned most fiercely; for the moneyed aristocracies, which prevailed in Etruria and Umbria, stood by Rome, together with most of the Latin colonies, the Greek maritime cities, and many of the favoured allies. The bitterness with which the Italians waged the struggle is shown by the founding of their capital at Corfinium with the name of Italia and a constitution that was a close copy of Rome. In Rome all business was suspended and vast preparations made for the war; but the year 90 B.C. was on the whole highly favourable to the Italians, and the revolt of Venusia was a formidable sign of the feebleness of the ties that now bound even the great Latin colonies to Rome.

Conces-
sions at
Rome.

The Social war was the gravest crisis through which Rome ever passed; but our accounts of the course of events are meagre and thoroughly unsatisfactory. The campaigns of 90 B.C. seemed to convince the Romans that nothing was to be gained by stubbornness and coercion, and in the winter they approached the question in a different spirit. Before the actual commencement of the war the Italians had offered to lay down their arms in return for the citizenship; but the Romans had contemptuously refused to listen to the demand and had begun a war of prosecution against the supporters of the Italian claims. Three measures were taken in the winter of 90-89 B.C. which showed a desire for compromise and accommodation. The Varian Commission was taken from the

Equites on the proposal of Plautius Silvanus and given to judges elected by the assembly, an irregular and unprecedented act, which could only be justified by the extreme crisis; the result was that the expulsion of the Moderates was checked, the exiles allowed to return, and the Commission turned against the very extremists who had used it for their own political ends, Varus himself being driven from Rome. Further, two laws of great importance were passed which fundamentally concerned the matter in dispute. The Lex Julia, Lex Julia, was passed by the Consul Cæsar, on his return to Rome after the campaign, giving the full franchise to all allied and Latin States that had remained faithful to Rome, on their signifying their acceptance of it. The second law was the Lex Plautia Papiria, carried late in 90 B.C. or early in 89 B.C. Lex Plautia Papiria, by two Tribunes; this gave the full franchise to all 'cives' and 'incolae' of allied and Latin States, domiciled in Italy, who gave in their names to the Praetor Urbanus within sixty days. For the purpose of these laws Italy was conceived as extending to the Po; the communities between the Po and the Alps were organised like the Italian cities, and by the law of Strabo in 89 B.C. they received, not the Roman franchise, but the same rights as had hitherto belonged to the Latin colonies. The barriers which marked the division between the citizens and allies were still further broken down by the Calpurnian Law, which gave the generals power to grant the franchise to Italians on the field of battle, a power which Marius had unconstitutionally arrogated thirteen years before.

A great effect was produced by the two important laws—the Julian and Plauto-Papirian. The one confirmed in their loyalty the allies hitherto faithful, the other, which applied only to individuals, detached large numbers from the Italian cause, while the whole force of resistance to Rome was no doubt weakened by this display of conciliation. From this time forward the Roman arms began to gain the ascendancy, though the war was not finished till ten years later when Sulla took Aesernia, ravaged Samnium, and with terrible severity stamped out the last lingering sparks of the great conflagration.

Enrol-
ment of
the new
citizens.

In order to arrange the new burgesses among the Roman citizens P. Crassus and L. Julius Cæsar, the proposer of the Julian Law, were made Censors. They had a problem to solve that was by no means easy. Though the concession of the franchise made by the Romans had been only partial, the number of those who accepted it was doubtless very large, comprising most of the great Latin colonies and a number of allied communities, beside a host of individual citizens who came in under the terms of the later law. Most of them would naturally be enrolled among the rustic tribes, where the number of Roman voters was smallest; it follows that the enrolment of the Italians and Latins in all the Tribes indiscriminately would have given them a large if not a preponderating voice in the citizen assemblies. In fact the Romans would be able to rely implicitly only on the four city Tribes. The idea of Rome as only a part of Italy had not yet taken root; the capital had hitherto been the mistress and the rest of Italy her obedient servants. It would hardly be expected then that the Romans should at once take the course of admitting all the new citizens on equal terms with themselves, and giving them the command of a majority in the Tribe assembly; such a plan was much too radical for the very conservative government under which the compromise was made. In reality the burgess-assemblies were so little representative of the burgess body that there would have been little danger of the new citizens coming in any large numbers to Rome to exercise their newly acquired rights. If the new citizens were to be admitted on an inferior footing, without any difference in the actual *personal* rights of citizenship, it could only be done by limiting the number of votes at their disposal; that is to say they must be limited to a certain number of tribes—in the same way as the Libertini. This was the course the Censors followed; but there are two distinct accounts of the way in which it was done. According to Velleius Paterculus they were enrolled in only eight of the existing thirty-five tribes; according to Appian they were enrolled in ten new tribes. The former view has been commonly adopted; but the latter seems more probable for the reason that it was simpler and less likely to disturb the existing

arrangements. If this view is correct the return to the old number of thirty-five tribes was due to Cinna, who enrolled the new citizens in all alike. It is possible that the confusion may have arisen from the application of a different principle to the two laws, the individuals being enrolled under the Plauto-Papirian law in eight of the old tribes as they gave in their names, and the communities under the Julian Law being formed into ten new tribes. The creation of the ten new tribes is certainly confirmed by the mention of two new names in a fragment of Sisenna, who was Praetor in 78 B.C. and wrote a history of his own times.

By 88 B.C. the Samnites alone held out, and Aesernia was the centre of the insurrection; but the remainder of the struggle grafted itself on to the civil war which began in this year. Rome was practically in a state of anarchy^{in R} everywhere insubordination and dissatisfaction were rampant. The war had drained the Treasury; the populace was indignant at the restriction of the corn doles; the Praetor Asellio who tried to revive the laws against usury in 89 B.C. was murdered, and the problem of debt had become so serious, that general repudiation (*novae tabulae*) began to be a regular plank in the platform of the demagogues. The old discord between the Equites and Senate was breaking out with greater violence than ever, owing to the measures of the Varian Commission and the retaliation of 89 B.C. Moreover the concessions made by the Government had the effect of exasperating the Italians. They were not placed on a level with the old citizens, but were on a distinctly inferior footing; and only those who came under the laws of 90 B.C. and 89 B.C. got anything at all. The Italians who had engaged in the war and had either laid down their arms or been subdued, comprising the best and bravest of the allies, got nothing; their old treaties were not renewed, and they were virtually in the position of the 'dediticii'—legally they had no rights at all. Lastly, the great change in the military system of a few years back was beginning to bear fruit in the insubordination of the troops, who even put to death an unpopular general, Albinus, at Pompeii. It was clear that a strong hand was

wanted to restore order, and that the Government was incapable. It was unfortunate for Rome that the one man who was capable of setting things right was wanted in the East, and that the outbreak of the war with Mithradates condemned the city to eight more years of anarchy.

Sulpicius
Rufus.

The Consuls for 88 B.C. were Sulla and Pompeius Rufus, of whom the former was entrusted with the war against Mithradates and the latter with the operations in Italy. Among the Tribunes was P. Sulpicius Rufus, a noted orator, a member of a great Patrician family, and one of the strongest supporters of the Moderate party to which Drusus had belonged. He had originally been on the Senatorial side, and his first appearance was in the prosecution of Norbanus, the enemy of Caepio and the Senate. The violent and unsparing persecution of the Moderate party after the death of Drusus induced him to renounce his patriciate and get himself elected Tribune, with the double object of being revenged on the Senate, and carrying out the plans of Drusus. He was not a Revolutionist planning a systematic attack on the constitution like Gaius Gracchus, nor a demagogue after the pattern of Saturninus; his effort to remove the disabilities of the Italians was entirely in the spirit of Drusus, and was thoroughly admirable and necessary for the peace of Italy; but his methods were violent and reprehensible; he was not a man of the right temperament for his work; his passionate temper and impatience of opposition carried him beyond all bounds, and led him into an armed conflict with Sulla which could have only one result.

The
Sulpician
Rogations
88 B.C.

Sulpicius promulgated three rogations: firstly, that all Senators owing more than 2000 denarii should give up their seat in the Senate; secondly, that the new citizens and freedmen should be enrolled in all the thirty-five old tribes; thirdly, that the exiles who had been sentenced by the Varian Commission should be recalled. The first of these proposals was no doubt partly dictated by his personal resentment towards the Senate; but the bad pecuniary position of many of the Senators needed some stringent

measure; the general deterioration of character among the Aristocracy had been prolific of evil results, and the almost universal corruption rested largely on the insolvency of many of the Senators, which left them at the disposal of their wealthier creditors. The third law was open to the grave objection that it cancelled a verdict of the public courts, a precedent that was full of danger, even though the sentences in this particular case were notoriously dictated by political considerations and violent party feeling; the proposal of course was made in the interest of the Moderates, to whom Sulpicius himself belonged. The second measure was less open to exception. One of the principles on which Drusus had worked was to abolish everything that might be made a pretext for demagogism, 'to leave nothing to divide among the citizens but the mud and sunshine.' Now the grudging concession made to the Italians left this question as a fertile source of dispute; the new citizens were themselves dissatisfied, and many of the favoured allies, such as Neapolis and other Greek cities, were unwilling to give up their privileges, which included exemption from service in the fleet and all taxation, for the burdens of a partial citizenship. It was only the bigotry and prejudice of the Roman citizens that caused any opposition to the scheme, for the unrestricted admission to the thirty-five tribes would have had very little practical effect, seeing how the Comitia had fallen.¹ The inclusion of the freedmen was intended to secure the support of the proletariat which was largely composed of libertini, and was in itself defensible; for now that the 'Capite censi' were eligible for military service, the chief argument which had hitherto been used against the equalisation of the freedmen and non-freeholder with the freeholder fell to the ground.

These laws met with violent opposition from the Senate and the populace alike, and the Consuls proclaimed a 'Justitium,' thereby suspending all public work. Sulpicius then proceeded to extremes; relying on a mob of armed supporters, he drove the Consuls from Rome and passed his laws. Sulla retired to the head-quarters of his army,

Sulpicius
and
Marius.

¹ See p. 280.

which was in Campania waiting for transportation to the East, and Sulpicius was left to face the possibility of a struggle with the master of the Legions. In these circumstances Sulpicius turned to the old popular general, who had long been hoping that the war with Mithradates might restore him to the pinnacle from which he had fallen, and a proposal was brought before the people by which Marius was invested with Pro-Consular power for the war against Mithradates, and Sulla was ordered to hand over to him the command of his army. The very terms of this decree show how little Marius and his supporters understood the nature of their opponent. Sulla addressed his army, assured himself of its fidelity and marched on Rome; Marius escaped, Sulpicius and many of his supporters were taken and killed. Sulla had demonstrated that for the future the final word on politics in Rome lay with the wielder of the sword.

Aims of
Sulpicius.

The work and position of Sulpicius have been much misunderstood; he has been wrongly regarded as a tool of Marius, whose chief object was to secure for the opposition general the command against Mithradates. Those who hold this view represent his plans for equalising all the citizens as a means for attaining this end by gaining control of the Comitia. There is no probability in this view; the most telling argument against it is this:—the war in the East was imminent; but for the political troubles Sulla would probably have sailed for Asia immediately on entering office; any scheme intended to replace Sulla must have been immediate in its effect. Now the redistribution of the new citizens, and the arrangement of the new lists, would have been a long and tedious piece of work; in 89 B.C. it was necessary to create special Censors for carrying out the enrolment of the new citizens, and their work was simplified by the restrictions placed on them, that is the enrolment in only a few tribes. It is clear that the new Comitia, based on the revised lists, could hardly come into existence before the end of the year, and such a delay in undertaking the Mithradatic war would have been fatal to Roman interests in the East. There can be little doubt that the real aim of Sulpicius was the removal of the

disabilities of the new citizens. It was only after the armed conflicts with the Consuls, when he feared that Sulla would march upon Rome, that he conceived the idea of gaining the support of Marius. Sulla might, but for this attempt to replace him, have proceeded to the East and left the struggle in Rome to settle itself; it is by no means certain that at this time Sulla had formed any of the plans which he afterwards carried into effect; his chief object at this time seems to have been the assurance of his power and the heightening of his influence by a successful war in the East; his sympathies were no doubt aristocratic, but it is questionable whether the completeness of the Senatorial constitution as subsequently founded by him, and the party bitterness with which his measures were accompanied, were not directly due to the misguided policy of the opposition and the violent personal attacks directed against himself.

Not only was the seizure of Rome by Sulla the first example of the use of a Roman army to drive out a political opponent, it afforded a more dangerous precedent still, for Sulla proceeded to proscribe and put to death the leaders of the opposing party. No law seems to have been carried, no special Commission was appointed to cover with a cloak of legality the murder of his enemies—forms which had in the earlier revolution been scrupulously observed. Sulla openly avowed the doctrine of force and the old law of 'provocatio' became a nullity; it was not repealed; it came into operation again as soon as the reign of terror was over; but Sulla first asserted the power of the master of the army to put his adversaries to death without any form of trial.

Before sailing for the East Sulla passed certain enactments. A Lex Unciaria, of uncertain nature, was carried in aid of the debtors, and arrangements made for colonies, which showed that he was not entirely hostile to the favourite scheme of the Reform party. But with these went measures of a very different type. The Senate, which had suffered considerably during the violent party struggles of the past years, was filled by the enrolment of 300 new members chosen from the strong Aristocrats. To this body

Sulla and
the Op-
position.

Temporary
mea-
of S

Sulla proceeded to hand the complete control of legislation by the enactment that no measure should be proposed to the Comitia without the preceding consent of the Senate; that is to say, Sulla restored the state of affairs that had existed during the ascendancy of the Senate. This was the most fundamentally revolutionary measure yet passed in Rome. Gracchus had conducted a virtual revolution by reviving obsolete but not unconstitutional power admittedly possessed by the people, which had in constitutional practice lapsed. Sulla introduced a new basis for the constitution *in law*; the Senate and not the people was now *in law*, as it had been *in fact* from 200 B.C. to 140 B.C., the sovereign power in Rome, according to the usual acceptance of the doctrine of sovereignty. His final measure was equally reactionary; he abolished the reformed Comitia Centuriata, which had existed since the end of the first Punic war, in which all the classes had an equal number of votes, and went back to the old Servian arrangement, under which the first class and Equites combined held 98 votes out of a total of 193. But this law had less effect in practice than would seem likely at first sight; for the economic changes of late years had been so great, and the influx of money and the consequent rise in the market value of land and commodities so marked, that the number of citizens with property entitling them to a place in the first class, in spite of the amount of insolvency in Rome, was by no means small; in fact, the Servian valuation for the first class was no longer sufficiently prohibitive to exclude all but the wealthy few, and the raising of the minimum of the lowest class to the old sum of 11,000 asses was at any rate calculated to lessen the evil of bribery, which must have increased immensely with the lowering of the qualification. Thus though the election of the greater magistrates, Consuls, Praetors and Censors appeared to have been given back to the wealthier citizens, we find in the elections of this very year, conducted as they were under the eyes of Sulla himself, that, while Octavius the candidate of Sulla and the Aristocracy was elected, the other place fell to the Democrat L. Cornelius Cinna—a

fact which proves conclusively that the reorganisation of the Comitia had not such a marked effect as we should expect from its terms. Sulla accepted this reverse and did nothing more than demand from the Consuls an oath that they would respect the new constitution. His old colleague Rufus was sent to replace Strabo in command of the Northern army, but was murdered, and Strabo resumed the command, a sufficiently clear proof that the opposition was by no means dead. Sulla seems on this occasion to have acted with negligence or half-heartedness; probably he saw that the struggle must be renewed and was content to leave the circumstances and issue of it to the future in which he had so firm a belief. For the present all his attention was concentrated on the East; he knew his measures at Rome were destined to be only temporary and he did not wish to take the trouble to abolish the main features of the Gracchan constitution, the corn-largess and the Equestrian Courts. Possibly he saw that even the ultimate restoration of the Senate on the lines he subsequently adopted could not be permanent, for a restoration of the Aristocracy was fundamentally opposed to the tendencies of the age, and the more bitter attack which he made on the opposition after his return, might never have been undertaken but for the provocation offered him during his absence.

CHAPTER XI

CINNA AND SULLA

Cinna
expelled
from
Rome.

SULLA'S temporary measures had done nothing to remove the general discontent and discord in Rome. The absolute disregard of constitutional forms which he displayed in passing these laws had merely set an example which his opponents would not be slow to follow if they found the superiority of force in their hands. Scarcely had Sulla left Italy when the disorders began. The leading spirit was the worthless Cinna, at whose side stood more capable men such as Carbo and Sertorius. Cinna at once proposed the distribution of the new citizens and freedmen in all the thirty-five tribes, and the recall of the exiled members of the Sulpician party. Octavius led the Government party, and a bloody fight took place in the forum in which the Cinna party were defeated and driven from Rome. The question now arose as to what should be done with Cinna; the Consul could not constitutionally be deprived of his office, but it was not a time for strict adherence to forms. A *Senatus-Consultum* was passed deposing Cinna, and he and his supporters were outlawed; but unfortunately no steps were taken to secure their departure from Italy. Many of the Italians were still disaffected to Rome; the Samnites were maintaining an equal struggle with the Roman army under the Senatorial General Metellus. By the aid of all the disaffected elements Cinna secured a strong force and was accepted by the Roman legions in Campania; while Marius, who now landed in Italy, joined him from Etruria with a rabble of some thousands of armed slaves.

The new
army and
politics.

The value of the newly organised army for political purposes was now to be fully shown. Sulla might claim that he had used his troops to restore order and expel anarchy; Cinna

could only claim that he had employed his to destroy orderly government and gain revenge. It was clear that when there was no strong motive of personal attachment to a general the army would go to the highest bidder. Sulla's men followed him because he represented to them that if Marius received the command against Mithradates he would employ other troops; the Campanian legions joined Cinna simply in hope of gain. The spirit which had caused the mutinous soldiers of the old citizen armies to lay down their arms and refuse to stain their swords with the blood of their fellow-countrymen was no longer to be looked for in the professional soldiery of the last century of the Republic. The Senatorial troops could not be trusted; they had everything to hope for from a Revolution; they could expect nothing but their pay from the government. A compromise was attempted, and a decree of the Senate was passed extending the operations of the Plautio-Papirian law to all allies who had taken up arms and who had in consequence lost their treaties. No material accession to their forces accrued, and the Cinnans, who were in possession of the greater part of Italy, began a regular siege of Rome.

The vacillation of the government, the disunion of their leaders and the treachery of the troops forced the city to submit; Cinna and his party entered Rome, and Marius spent his last days in satiating the vengeance he had so long nourished against the Senate. For days Rome was a scene of ruthless butcheries executed by the creatures of Marius. Gaius and Lucius Caesar, Antonius the orator, and hundreds of the best men in Rome and Italy were ruthlessly sacrificed to satisfy Marius' thirst for blood; no crime was necessary beyond that of belonging to the hated Optimates. Marius for the seventh and Cinna for the second time were elected Consuls for 86 B.C.; but early in the year a fortunate fever carried off the bloodthirsty old General in the first weeks of his seventh Consulship. No character in history has more effectually hidden his great deeds behind a cloud of infamy; but perhaps we should judge him rather by his earlier than his later work. In his last years he would seem to have been scarcely responsible for his actions. His thirst for power and

Marius
and Cin
at Rome.

craving for revenge bear almost the marks of insanity ; it was his misfortune, and still more the misfortune of his country, that circumstances placed him in the position to gratify his wild cravings. In 101 B.C. he was the hero of Rome and the saviour of Italy ; an able, rough, honourable general, with a hatred and contempt for all incapacity and shams ; a year later he had sunk into obscurity ; after an interval of twelve years the Sulpician revolution brought him once more to the front, and the troubles of the following year gave him the chance to appear again as the most powerful man in Rome and die a shameful death amid the universal hatred of Italy.

The
tyranny of
Cinna.
86-84 B.C.

For over two years Cinna was the irresponsible master of Rome. All parties alike were submissive, for the legions were at the back of the Consuls ; force could only be met by force, and the one man who could champion the Senate with effect was beyond the political horizon for the present. The Democrats seemed to have lost sight of Sulla in the distance ; thoroughly assured of their position in Rome, they ignored for the present the possibilities of retaliation ; the day of reckoning was distant and with the blissful irresponsibility that marks all the operations of their party they proceeded to gratify their hatred of Sulla by sending a general to supplant him in the East, by razing his house to the ground in Rome and laying waste his estates in Italy. For the first time since Gracchus had begun his attack on the rotten administration of the Senate, the Democratic party found itself in undisputed possession of power. It is natural to enquire how it endeavoured to remedy the abuses it had protested against, what it tried to put in the place of the government it had overthrown ? Policy it had none ; no attempts at systematic reform were made ; a few scattered enactments were passed, the most notable being the law of Flaccus relating to debt, by which debtors were relieved of three quarters of their liabilities, and the definite extension of the franchise to all Italian citizens, even those still in arms against Rome. Beyond these two measures, of which the latter was an extension of the Senatorial decree of 87 B.C., and the former a demagogic proposal of the worst kind, nothing was done. They gained their position by civil war, fortified

it by wholesale murder, and used it to establish anarchy. With a few exceptions the leaders of the party were men of noble families, Cinna, Flaccus, Carbo and Scipio. There was among them only one man of genuine ability, Sertorius, and he was nothing more than a soldier. Led by selfish incompetents, who joined the party for plunder and power, it is hardly to be wondered at that the party of Reform belied its name. Never had there been in Rome such an open disregard of all constitutional forms. Cinna held the Consulship continuously and nominated his colleague without even a show of popular election; after his death Carbo remained sole Consul. No sign of opposition to their rule appeared, for none dared to give voice to it; the Senate was ignored and terrorised, and any suspicion of resistance served to seal the doom of the offender; the capitalists were exasperated by the law of debt, but they had to bear their spoliation without a murmur; the proletariat found one master as good as another and were pampered by the full renewal of the corn doles, which had been partly suspended in 91 B.C.; the better class citizens, intensely though they resented the abrogation of all constitutional forms, might well doubt whether anything would be gained by the restoration of Senatorial power, which could only be achieved by force of arms and would undoubtedly be followed by terrible reprisals; the new burgesses, whose addition swelled the citizen list from 493,000 in 86 B.C. to 910,000 at the next census, alone gave a strong support to the party in power. It is curious that during this period of democratic ascendancy the Tribunate, which had hitherto been the chief instrument of opposition to the Senate, is not heard of. Gracchus had deprived the Senate of supremacy and had put the Comitia in its place with himself at the head; the present party made no effort to fill the gap; nothing was done to reorganise the Senate or make it useful; the administration was left to take care of itself in the hands of Cinna and his friends; no steps were taken to provide for the government of the empire; the future was left to chance; the old constitution remained exactly the same, except of course that Sulla's laws of 88 B.C. had been repealed. In spite of all this utter disorganisation Rome itself was quiet,

but it was the hush of terror that precedes the breaking of the storm.

Return of
Sulla.

In 84 B.C. came Sulla's letter to the Senate announcing his success in the East and his impending return to Italy. He saw that the result of the struggle must depend largely on the attitude of the Italians, and he expressly intimated his intention of recognising the rights of the new citizens. To gain the Moderate party he assured the Senate that only the leaders of the late revolution should be punished. The Senate tried to effect a compromise between the leaders, but it failed, and Sulla returned to Italy to re-establish the Senatorial government by arms. His chance of success at first did not seem hopeful; the majority of the Italians did not trust his promises; but he wielded in his army such a weapon as no Roman general had had before. Five years before that same army had obeyed his orders and marched on Rome; from that time it had been always under his eye; he had trained it to feel a blind devotion to himself and to share that confidence in his own ultimate success that had enabled him to carry the Eastern war to a triumphant conclusion in the face of innumerable difficulties, and calmly to pursue his aims in Asia while his home was being destroyed and his friends exiled and murdered. The contrast between the unflinching loyalty of Sulla's troops and the forces of the Democrats, who in many cases went over in a body to the Senatorial general, was no less marked than that between the studied moderation of Sulla himself, who promised immunity to all who would join him, no matter how deeply involved they might be in the affairs of the past few years, and the blood-thirsty recklessness of his opponent, the younger Marius, who, when he found the capital was lost, outdid all the crimes of his associates by ordering the murder of all the notable men of the Optimate party still left in Rome, an order faithfully carried out by the Praetor Damasippus.

Sulla
master of
Rome.

The bloody battle at the Colline Gate in 82 B.C. left Sulla master of Rome. He now had to grapple with the restoration of law and order at Rome. He must often have foreseen the necessity and extent of this task, and doubtless entered on it with a clearly conceived plan of action. Sulla was a political

reactionary ; from the time of Tiberius Gracchus the Populares had taken the offensive, and the assault on the Senate had culminated in the tyranny of Cinna and the entire suspension of all orderly and constitutional government. Throughout his career Sulla had posed as the champion of the Senate and constitutional practice ; he did not aim at a personal government whether based on a magistracy or the support of the army ; he intended to restore the ascendancy of the Senate and to watch over his constitution ; he would be the first man in Rome and the guardian of the Republic, not its ruler. He was essentially a man of pleasure, who loved ease and culture, and was devoted to sensuality even beyond the very liberal fashion of his day. It so happened that circumstances forced him to the front, and that the easy-going man of the world, who would have been content to spend his time in the pursuit of bodily pleasure and intellectual enjoyment, was thrust on to the stage in the most troubled period of Rome's history. He never played for his own hand ; the aristocratic government had to be preserved, and he was the only man who could preserve it. This was the task he took upon his shoulders, and he carried it through from beginning to end with a determination that never flinched. He professed himself a believer in fortune ; he took the name of Felix, and a glance at his career might well suggest the doubt whether anyone has better deserved the title. He never fought a battle that he did not win, he never set his hand to a task that he did not accomplish, whether it was the unravelling of a tangled skein of Asiatic diplomacy, or the prosaic work of superintending the commissariat of the armies in Gaul. It pleased him to ascribe this to Fortune ; it was in reality the result of a marvellous capacity for organising details, no matter how uninteresting or insignificant ; a readiness of mind that enabled him always to strike at the right spot at the right moment ; and the force of a personality that gained, often by concealing the determination and firmness that underlay the outward graces of an easy manner, an extraordinary ascendancy over those with whom he was brought into contact, from the humble legionary to the Asiatic ruler over millions.

Sulla
appointed
Dictator.
82 B.C.

The mere restoration of the Senatorial government might have been accomplished by quietly allowing the election of the annual magistrates and the resumption of the ordinary business of the state; the remnant of the Senate that had survived the massacres would, with the support of Sulla and the army, have been quite competent to resume control of Rome and take vengeance on their enemies. But the resumption of the supreme power by a party enfeebled by the loss of all its ablest members would hardly be likely to make for the permanent restoration of orderly government. For example, nothing was more necessary than a reconstitution of the Senate itself. If the new aristocracy was to be a success the Senate must have at its disposal the best ability of the party—a result that would not be achieved by leaving the enrolment of the new Senate in the hands of extreme and incompetent Aristocrats, thirsting for revenge against their late oppressors. Only one way lay open for a settlement of the State; it must be undertaken by one man, standing above all possible rivalry, and strong enough to discourage opposition from his enemies and neglect it from his friends. With this object Sulla was invested by the people with an extraordinary office on the motion of Flaccus, who was appointed interrex for the purpose in the absence of all curule magistrates. All Sulla's past acts were approved, and he was appointed 'Dictator legibus scribundis et reipublicae constituendae,' 'Dictator for making laws and settling the constitution.' This office was quite different to the old Dictatorship that had lain in abeyance since 217 B.C.; there was nothing in common between them but the name, their character as an extraordinary supreme magistracy, and the appointment of a master of the horse. Sulla's dictatorship was to last, not for six months, but for as long as he thought needful; there was no appeal from him; the lives of the citizens, the organisation and government of Rome, Italy and the provinces depended on him exclusively; all the ordinary magistracies were suspended unless he chose that Consuls should be elected; and the outward and visible sign of this unprecedented plenitude of power was the increase of the attendant Lictors from twelve to twenty-four. From the

beginning of his supremacy Sulla clung to the observance of forms ; though master of Rome he was only Pro-Consul, and he refused to enter the city till he had been made Dictator. In fact this election conferred on Sulla no power that was not already in his hands ; but if he was to settle the affairs of Rome autocratically, and restore order to the city, his acts must rest on a show of legality, unless he wished to vitiate them from the beginning. If the old Dictatorship was in theory nothing else than the kingly Imperium restored to meet a crisis, the new Dictatorship conferred on Sulla was equivalent to a far more absolute monarchy ; for the checks which custom had imposed on the kings, consultation of the Senate and Comitia, were reduced to the merest forms in face of the power which the support of the army conferred on Sulla.

The first chapter of Sulla's rule opened with the most awful incident in the history of Rome. In virtue of his unlimited power he outlawed all who had fought under the flag of the Democratic party, except those who had submitted to him on his return ; their lives were forfeited, their property confiscated and sold, their descendants debarred from all political preferment. This general proclamation was soon replaced by a formal list of those to be despatched ; it contained 4,700 names, of whom 1,600 were Equites. This awful butchery was the Sullan answer to the massacres of the Marian party. For neither of them can the slightest excuse be made ; but the Sullan proscription appears the more horrible of the two. The butcheries perpetrated by the elder Marius were directed by a craving for personal revenge that was little else than a form of insanity ; the final massacre ordered by his son was a last wild act of hatred against the party that had driven him and his father as outcasts from the city. Sulla was not actuated by personal motives ; they were not only his private or personal enemies who fell ; he had pardoned many of his chief opponents who had made their peace with him. Sulla's proscription was a preliminary act to the restoration of the Senatorial power ; the publication of the list of names, the sale of the murdered men's property for the enrichment of himself and his satellites, stamped it as a cold-blooded episode in a systematic scheme

which could not plead the excuse of personal passion. Nothing shows more clearly the political side of these butcheries than the number of Equites included in the list; for it was among the wealthy capitalists that opposition to the Senate had found so firm a root since the time of Gracchus. It is the awful severity of the punishments, cutting off the descendants of the proscribed from public life, and the calm perpetration of these crimes by the supreme master of Rome, who had no rival, and was under the influence of no political excitement, that stamps them as worse than the Democratic massacres or the previous achievements of the Senate against the supporters of the Gracchi.

Sulla and
the new
citizens.

The one innovation of any moment made by the Democrats, the inclusion of all Italians in the Roman burgess body, was recognised as valid by Sulla in accordance with his promise of 84 B.C. This was the final settlement of the Italian question; but while the new citizens were thus conciliated by the final recognition of their Citizen-rights, they were estranged by the terrible penalties inflicted on many of those who had maintained the struggle; Samnium was desolated; many towns such as Praeneste and Norba were stripped of their walls, and all their territory was confiscated; their inhabitants lost all municipal rights, and did not gain the Roman citizenship. The Democrats had often tried to make the Italian domain lands available for distribution; this was now effected, and Sulla used them for settling his veterans in every part of Italy; over 120,000 allotments were made, and the Sullan veterans were expected to champion the cause of his constitution throughout Italy as eagerly as the 10,000 slaves of the proscribed whom he manumitted in Rome.

The
Tribunate
attacked.

Sulla could now turn to his strictly constitutional measures. The first institution to be attacked was the Tribunate which had since the time of Tiberius Gracchus been the organ of reform. It was by means of the unrestricted power possessed by the Tribunes of submitting legislation to the sovereign people that Gracchus had overthrown the Senate. For the future the Tribunes were deprived of initiative in legislation, and their power of veto was restricted to the

original 'Jus Auxilii'; moreover the office received a severe blow by the regulation that the Tribune should disqualify the holder for all other magistracies. It is hard to see why Sulla left the Tribune in existence. After the passing of the Hortensian Law the Senate, then becoming supreme, had allowed the Tribune to continue, because they saw in it a useful weapon for checking anyone who endeavoured to thwart their will; but the destruction of the political veto of the Tribune would destroy its political value. It is possible that Sulla foresaw the entire dependence of his constitution on himself; the attacks on the Senate must be renewed at no very distant date, and he may have thought the crisis would only be hastened by the removal of one of the oldest institutions of Rome. The continuance of the mere shadow of a great magistracy might on the other hand be regarded as an ever present incentive to the opposition to endeavour to recover the substance. A more likely reason suggests itself. It was not in accordance with Sulla's aim as the restorer of the pre-Gracchan constitution to remove entirely one of the chief landmarks of the period. Sulla professed himself a fatalist; if the struggle was to be renewed no advantage was to be gained by abolishing the Tribune; its retention in some form or other would avoid the risk of needlessly hurting the susceptibilities of the Romans, who were intensely attached to old institutions. Moreover there was some present satisfaction in handing over to the Senate its traditional enemy bound hand and foot.

The Senate itself had been terribly thinned by the The new massacres of the Marians and the prosecutions of the Senate. Equestrian Courts. Sulla's first care was to fill up these gaps. Three hundred new Senators were created by election, that is to say the tribes were called to vote upon the name of each of the candidates proposed; these were all men of Equestrian Census; they were doubtless younger members of the old Senatorial families, or satellites of the ruler himself who had been enriched by the confiscations, and the election by the tribes meant nothing more than that the people was allowed the formal privilege of sanctioning Sulla's nominees. Hitherto the *Lectio Senatus* had lain with the Censors;

the Ovinian Law had regulated the practice of filling the vacancies by the selection of ex-magistrates; if these did not suffice the Censors had free right of selection, at any rate in theory. Sulla determined to abolish a power that might threaten the independence of the Senate; admission by Censorial selection was abolished; the Quaestorship was adopted as the qualifying office; ex-Quaestors became *ipso facto* members of the Senate, and to ensure a sufficiency of new Senators for the now enlarged Senate Sulla raised the number of Quaestors to twenty. Henceforth the Censorship was practically shelved, for with their right of selection they of course lost their right of rejection, and the Senate for the future depended for its composition directly on the votes of the tribes in the elections of Quaestors. Sulla did not fix any definite number for the Senate, but twenty new members each year, if we put their age at thirty and the average duration of the Senatorial life at twenty-five years, give a total of roughly 500. This increase in number was necessary in view of Sulla's determination to transfer the Jury Courts to the Senate, for the number 300 was insufficient for the purpose.¹ The composition of the Senate thus arranged, it remained to assure its supreme control over the State. This he effected by re-enacting his temporary measure of 87 B.C., giving the Senate *in law* that power which it had exercised *in fact* after 287 B.C., initiative in legislation. The Magistrates were forbidden to bring any measures before the assembly on their own responsibility, and the principle was now for the first time laid down by law that no measures should come before the assembly without the preceding consent of the Senate; the *Senatus Auctoritas* which had in *custom* been necessary in the third and second centuries B.C. was now demanded by *law*.

Magis-

Pro-Ma-
gistrates.

In his dealings with the Magistrates Sulla showed the same intention of making all subordinate to the Senate. The Tribune and Censorship had been rendered harmless; the two chief magistracies, the Consulship and Praetorship, still remained. From the time of Sulla, and probably in consequence of his arrangements, the custom always held that

¹ See p. 271.

the Consuls and Praetors should restrict themselves to civil administration, and should then, at the expiry of their year of office, proceed to the provinces as Pro-Consuls and Pro-Praetors with military power. Hitherto the practice of continuing a Consul or Praetor as a Pro-Magistrate for the following year had been commonly followed; but there was no definite system; it depended on the Senate, and much confusion had resulted from the increase in the number of provinces and the retention of the same number of Magistrates. Originally Praetors had been created on the establishment of new provinces (*e.g.* Sicily, Sardinia and the two Spains); in 197 B.C. this system was adequate; the two Consuls were at the disposal of the government, the six Praetors took the two judicial appointments in Rome and the four transmarine provinces; but when Macedonia, Asia, Africa, Narbo, Cilicia and the standing judicial Commissions were added, the whole system was disorganised and managed entirely at random, sometimes a Praetor sometimes a Pro-Praetor being in charge of a province. But the custom which Sulla finally established and regulated was already coming to be accepted as the regular usage, that the magistrates should be kept in Rome and the Pro-Magistrates sent to the provinces. Sulla raised the number of Praetors from six to eight, so that there were ten magistrates available; the Consuls managed the non-judicial business of the city, the eight Praetors the judicial business, now increased by the addition of new 'quaestiones perpetuae.' When their year of office was over, ten Pro-Magistrates were available for the ten provinces, Sicily, Sardinia, the two Spains, Macedonia, Asia, Africa, Narbo, Cilicia and Cisalpine Gaul, which now became a province. The Pro-Magistracy, which had arisen from considerations of convenience and had been continued for the same reason, now received a definite place in the Constitution. The theory of it was that the military Imperium was capable of being indefinitely prolonged; it did not cease, even by custom, at the end of the year; it continued till a successor arrived to take over the command. Thus it happened that a Pro-Consul could be kept at his post for two or more years, as Sulla had himself held a Pro-Consulship from 87 B.C. till his entry into Rome in 82 B.C. The Pro-Magistrate held no civil

powers in Rome and could not enter the City without laying down his power. Henceforth Italy as a whole took the place of Rome and in ordinary circumstances was freed from the Military Imperium altogether; the Consuls and Praetors were *civil* magistrates, the Pro-Consuls and Pro-Praetors were military commanders for the provinces. The latter office, like the former, became regular and was intended to be annual, though the scheme soon broke down. Two other regulations of Sulla's provincial law are known; a Magistrate sent out with Military Imperium held it till he re-entered Rome, and the retiring Pro-Magistrate must leave his province within thirty days of his successor's arrival,—the latter regulation being intended to prevent a recurrence of such incidents as the opposition of Fimbria to Sulla himself. The unfortunate point was that there was no guarantee that a general at the head of an army would be disposed to conform to this regulation.

The general aims of Sulla in this matter are clear. In the first place he wished to introduce order into a department of public business that was thoroughly random and disorganised; but his desire was still more to strengthen the Senate at the expense of the Magistrates. Marius and Cinna had overturned the Senate as Consuls backed by their armies; henceforth the Consuls and Praetors, the Magistrates most closely attached to the Senate in Rome, and concerned with it in the administration of Italy, had no armies to support them, and the Senate was freed from the perpetual terror of a *coup d'état*. The military command was intended to be restricted to the provinces, and the leaders of the armies, being Pro-Magistrates and owing their appointment to the Senate, were more dependent on that body than the Consuls and Praetors, who owed their position to popular election, could not be deposed or suspended, and were theoretically in no position of subordination to the Senate in the performance of their functions. The new system of Sulla placed the whole military system of the State in entire dependence on the Senate. It was still desirable to prevent the danger of a continual re-election to a magistracy, and to effect this Sulla re-established the '*Certus ordo magistratuum*,' Quaestorship, Praetorship, Consulship,¹

¹ See p. 230.

and enacted that an interval of ten years must elapse between two tenures of the same magistracy.

The wide extension of the franchise had made the *Comitia* even less representative of the Roman people than before; the danger of hostile legislation by them under the Tribunes had already been removed by the laws affecting the *Tribunate*. Co-optation restored for priestly colleges. Their powers were still further reduced by the restoration of co-optation for the priestly colleges, the Augurs, Pontiffs and *Decemviri Sacris faciundis*.

The corn-largesses and the position of the *Equites* still remained to be attacked. The corn-largesses were abolished; the *Equites* were reduced to a nullity; the old system of taxation in Asia was restored; the collection of the taxes by middlemen was abolished; the Jury Courts were given back to the Senate. In the matter of the criminal 'quaestiones' Sulla effected his best reform; but here again the origin of it is to be sought in political motives, but for which it is probable that Sulla would never have taken the trouble to reorganise the criminal system of Rome. The procedure which had been first instituted for provincial extortion by the *Lex Calpurnia* in 149 B.C., and subsequently applied to cases of poisoning by *Gaius Gracchus*, was extended by Sulla to a number of other criminal offences, high treason (*maiestas*), adultery, bribery at elections. The presidency, the number of jurors, and all the details respecting these 'quaestiones perpetuae' were determined by the laws under which they were created. There were two important results from this reorganisation; firstly the *Equites* lost their chief weapon against the Senate; secondly the cumbersome old form of procedure before the *Comitia* (*Judicia Populi*) was virtually abolished, and the infliction of the capital punishment practically disappeared. In the old trials before the *Comitia* it had long been the custom to leave the accused at liberty during the trial, and to allow him to withdraw into exile before the pronouncement of the sentence; but this was only a custom, and it was always legal to keep the accused in prison and sentence him to death; but the power of passing capital sentence was never granted to the *Quaestiones*; at most they could pass sentence

of banishment; and thus exile, which had originally been regarded as voluntary on the part of the accused, and as a mitigation of the extreme penalty, came to be itself the extreme penalty of the Roman Criminal Courts.

Organisa-
tion of
Italy.

There is one great administrative work which Sulla is generally credited with having undertaken,—the reorganisation of Italy. From the Po to the Straits of Messina the citizens of the Italian towns, with few exceptions, were full citizens of Rome. They had all the rights, public and private, which had till ten years before been restricted to the citizens of Rome; they voted in the Comitia, they could stand for Roman magistracies, the highest career in Rome was open to them all. Rome was now conterminous with Italy. Hitherto within the limits of the city municipal and imperial government had not been separated; such a separation was now necessary for the orderly government of this widely-extended citizen body; magistrates of Rome could not superintend the municipal affairs of the innumerable communities of Roman citizens. The systematisation of Italian municipal government is often ascribed to Sulla; but there is no direct evidence to show when it actually took place. The general principle came to be recognised that throughout Italy the various communities should elect their own local Magistrates, and manage in the widest-degree possible their own local affairs; the principle of the city within the State was for the first time accepted. The pattern of government was the constitution of Rome; the usual organisation was a burgess assembly which passed decrees and elected magistrates, a council of one hundred (*decuriones*) corresponding to the Roman Senate, and two colleges of Magistrates representing the Consuls and Aediles (*duoviri* or *quattuorviri juri dicundo*). The origin of this system, which went far to check the excessive centralisation of Italy in the capital, is unknown; possibly some such constitution was conferred on the great burgess colonies of the years following the founding of Aquileia (183 B.C.), and came to be gradually adopted throughout Italy after the absorption of the Italians into the citizen body of Rome; but there is nothing to show that it was the work of Sulla; in fact the presumption is

against this view, inasmuch as Sulla seems to have avoided setting his hand to any work that would not yield some political advantage to the Senate.

Sulla had now accomplished his aim ; he had restored Sulla's the power of the Senate, he had restored order to Rome. work. As evidence of his desire to pose as the champion of order and constitutional procedure he submitted his laws to the assembly, he allowed the election of Consuls for 81 B.C., he held the Consulship himself in 80 B.C., and in 79 B.C. he refused the Consulship offered him by the people, and laid down his Dictatorship to retire into private life. Sulla was forced by the circumstances of his time to reassert the power of the Senate ; he was the soldier of the Senate and not a constitutional reformer. If we except his judicial reforms, there is no new thing in Sulla's work, because he was only a political reactionary ; his constitution could not last, because it was an attempt based on the possession of force to check tendencies that had been growing stronger for generations. The Roman Senatorial aristocracy was out of date ; it was inapplicable to the government of a city state, and far more to the organisation of a great empire ; all the best ideas that had entered into Roman politics, the unification of Italy, the extension of the franchise abroad, and the closer union of Rome and the provinces were the property of the Democratic party.

The partial nature of Sulla's work is due to the limited view he took of his obligations. Nothing was touched that did not pertain to the solidification of Senatorial power. To bring this about he plunged Rome in a sea of blood, and fostered in Rome the spirit of party bitterness which was the surest guarantee for the overthrow of his own constitution. In all his work he seems to have wilfully closed his eyes to the future ; the disabilities imposed on the children of the proscribed afforded a rallying point for the disaffected party in Rome ; the sale of confiscated properties enriched his own followers, but encouraged that collection of vast estates in the hands of individuals which had hitherto done so much to ruin Italian agriculture and against which the Democrats had fought so hard ; whole districts of Italy were depopulated

by the punishment of the revolted Italians. By assigning lands to his veterans he planted throughout Italy settlements of men who cared nothing for law and order, who had been accustomed to be indulged in all sorts of license provided they stood by the general and won his battles. This scheme did nothing for agriculture, because the veterans would not farm their lands, and the prohibition of alienation was ineffective; the result was that if they remained on their lands they were a source of terror to the orderly country people, and if they returned to Rome they went to swell the ranks of the turbulent proletariat, already largely increased by the dispossessed Italians.

If little was done for Italy, still less was done for the Provinces. For the former the final recognition of all Italians as citizens of Rome was the one step in advance; for the Provinces nothing was done beyond the reorganisation of the taxes of Asia, and that only because it was possible by this means to strike a blow at the Equites. Theoretically the generals abroad were more dependent than before on the Senate; but the armies were passing more and more beyond the control of the home government, and their attitude depended entirely on the feelings with which they regarded their general. Sulla's one achievement was that he restored the Republic; and the restoration was useful because it showed that a Republic was no longer possible. With the Roman ideas of a Republican constitution, the Government must be conducted either by the Comitia or Senate. The former no longer represented the 'populus,' and the late triumph of the Democrats had shown that Government by the people must merge into a Tyranny; the rule of the Sullan restoration showed that a narrow-minded oligarchy, opposed to all the best tendencies of the age, was hopeless; the very triumph of Sulla himself demonstrated to all who would see that the future of Rome lay with the army and the successful generals; the temporary avoidance of a military dictatorship was due only to the fact that the general himself was disinclined to undertake the burden of personal rule. For the future of Rome Sulla did nothing but show the futility of any-

thing but a strong personal government in Rome. It would almost seem as if Sulla himself had recognised this, and seeing that the first general with a strong army at his back could overthrow his constitution he had recklessly determined to carry his plans through with a strong hand and give the Senate the temporary gratification of a thorough triumph. By imitating the massacres of the Marians he only hastened the inevitable crash and inspired the Romans with a feeling of horror for himself and all his works; but even a policy of conciliation, provided it were accompanied with a Republican form of government, could only have staved off the monarchy for a few years, for Sulla had shown that military power could be used to *create a constitution*. Gracchus had overthrown the Senate by insisting on the *letter* of the constitution, Sulla had created a new constitution to suit the interests of his own party. His example was fatal to the Republican idea; 'Sulla potuit ego non potero?' became the fixed idea of the Imperator; the military power that had been used to restore the Republic might serve just as well to found a Monarchy.

CHAPTER XII

THE DOWNFALL OF THE SULLAN CONSTITUTION

Revival of
the Op-
position.

AT Sulla's death the Senate found itself legally the supreme power in Rome; the magistrates and the Comitia had been humbled, the dreaded Tribunate reduced to a mere name. But in fact the death of Sulla was almost as fatal to the Senate as the death of Gracchus had been to the supremacy of the people in 121 B.C. The opposition was a strong one; it comprised all the classes who had suffered from Sulla's measures,—the Democrats who directed their efforts to the restoration of the Tribunate, the proletariat who hungered for the restoration of the corn-doles, the Equites who never forgot that they had been supreme in the Law Courts, the dispossessed Italians, the freedmen who had been again restricted to the four city tribes, and the ruined men of all parties who might hope to gain something from a revolution. Assailed by such forces as these, and without a conspicuous or far-sighted leader, the Aristocracy could not long hold its own.

Attempt of
Lepidus.

Scarcely had the ruler of Rome passed away when Lepidus, Consul for 78 B.C., a man of noble family but no capabilities, threw himself into the arms of the opposition for purely selfish reasons, and announced his intention of overthrowing the Sullan Constitution. Throughout all Italy the discontented were approached, and their support was enlisted for Lepidus, while the Senate foolishly made a compromise by allowing the partial resumption of the corn-doles. The insurrection soon found a centre; disturbances broke out at Faesulae, where the old inhabitants drove out the Sullan veterans; thereupon the Senate showed its incapacity by sending Lepidus to raise troops and put down the rebellion. As soon as he found himself at the head of an army he

marched on Rome demanding the restoration of the Tribune, the reinstatement of all who had been deprived of their possessions or punished by Sulla, and a second Consulship for himself. The defeat of the insurgents by Catulus left the victory with the Senate, but at a heavy cost; for they now found themselves confronted with a demand which reduced all the safeguards of the Senatorial power to a nullity. Among the generals employed against the insurgents was Gnaeus Pompey who had broken their power in the North of Italy; though he held no office he had been entrusted with an army by the Senate, which was blind to the danger of such an experiment. No sooner had he gained the victory than he appeared before Rome, refused to disband his troops, and demanded from the Senate Pro-Consular command and the conduct of the war in Spain against Sertorius. The Senate was in an awkward position; the general commanding in Spain was Metellus, a staunch Aristocrat and loyal adherent of the Senate; Pompey they did not trust; but he would take no refusal and Pro-Consular power was conferred on him, not by a vote of the people, but by a decree of the Senate. The careful regulations which Sulla had made for the regular holding of military power in the provinces were thus set aside; a man who had held no magistracy was invested with an important Pro-Consular command for an indefinite time, not because it was to the advantage of the Senate, but because the Government dared not refuse a demand backed by an army; and thus the whole scheme of Sulla for subordinating the military Imperium to the Senate fell at one blow by the inauguration of the system of extraordinary commands, which was to bear such important fruit within the next few years. The great truth was again proclaimed that the real power in Rome lay with the army, and that the Senate was as powerless as the Comitia when confronted with an ambitious general at the head of his troops.

Pompey
and the
Senate.

During the absence of Pompey in Spain the Senatorial Government had abundant opportunity of showing its incapacity. The Democrats still maintained their efforts to get the Tribune restored; the proposal of Sicinius was

Senatorial
misgovernment.

A HISTORY OF ROME

defeated in 76 B.C., but in the following year they won a partial victory with a *Lex Aurelia* of Gaius Aurelius Cotta, by which the prohibition barring all higher magistracies to ex-Tribunes was removed. In 74 B.C. the Government found itself engaged in a desperate war with Mithradates, and an extraordinary command was conferred on Antonius to clear the seas of the pirates, a duty in which he failed miserably, for in 69 B.C. the pirates captured Delos and even plundered the coasts of Italy. While Roman commerce was being destroyed on all sides at sea, the greater part of Italy was in the hands of Spartacus and his bands of gladiators and slaves. The Slave wars in Sicily had already shown the inefficient nature of the provincial government; the outbreak of this terrible insurrection at the very gates of Rome was the most telling indictment of the Senatorial government of Italy and the defects of the Sullan system. It was in the huge gangs of slaves on the *latifundia* that the insurrection found its supporters; in the region devastated by the confiscations of Sulla robbery and violence had flourished to an extraordinary extent for years, and when the gladiators from one of the schools near Capua broke out and stationed themselves on Mount Vesuvius, bands of armed slaves and brigands joined them from all parts of Italy, and the defeat of the Praetor Vatinius swelled their numbers to 40,000 men. Two Consular armies were defeated, and it was not till 71 B.C. that the Praetor Marcus Crassus gained a victory over them, and the remnant of the gladiators was cut off by Pompey on his return from Spain.

On all sides the government of the Senate bore the stamp of incompetency; it could not protect Roman commerce at sea, it could not preserve peace even in Italy itself; the government of the provinces, bad as it had been while the Equites were supreme in the Jury Courts, was as scandalous as ever; and the speeches of Cicero against the arch-robber Verres in 70 B.C. paint a lurid picture of the enormities to which the provincials had to submit at the hands of a Senatorial governor who relied on a jury of his fellow-Senators for immunity. An attack on the Sullan constitution was inevitable; only a leader was wanted for

the Democratic party, and at this moment Pompey returned with his victorious army from Spain.

His return at this crisis provided the Senate with food for much anxiety. Pompey had come into collision with them a few years before, and they had been forced to bow to his will; if he was dangerous then, he was more dangerous now, at the head of an army trained to serve him and bound to him by all their hopes of reward. He soon relieved their suspense by promulgating his demands; he claimed assignments of land for his veterans, a triumph, and the Consulship for 70 B.C. The Senate was not willing to grant these requests; it could not do so without voluntarily throwing overboard some of the regulations on which the Sullan constitution was founded. Pompey was legally ineligible for the Consulship; he was only thirty-six years of age, and he had held none of the offices which the laws required as qualifications for the chief magistracy; he could not legally triumph for he was not a magistrate; the practice of bribing the veterans by assignments of land was dangerous to the Government. But these objections were not insurmountable; the Senate had broken the constitution in giving Pompey the command in Spain; Sulla himself had allowed him to triumph; the demand for land for the veterans was according to the precedent set by Sulla himself. The mischief had been already done; it was merely a question of expediency. By refusing Pompey's demands the Senate only hastened its own fall; by granting them it could only have postponed the evil day, for Pompey would not willingly have settled down in the humdrum position of an ordinary Senator. To accept Pompey's claims meant to accept him as their leader, to make themselves his servants and carry out his plans; they preferred, wisely or not, to have him as a declared opponent rather than a master whose commands they must obey without question. They may have thought too, if they considered the question at all, that the coalition of Pompey and the chiefs of the Democrats could not last, and that circumstances must in the end ever drive him from a party with which he had so little in common.

Conflict
between
Pompey
and the
Senate.

Position of Pompey. Gnaeus Pompey was the son of the Strabo who had successfully commanded against the Italians and had passed the law conferring Latin rights on the Transpadanes in 89 B.C. Strabo was a member of the Equestrian party, a 'novus homo' of considerable influence in Picenum, and not without military abilities; but he was a thoroughly selfish and time-serving politician whom no party could trust. He incurred the suspicion of Sulla, who removed him from his command in 88 B.C.; subsequently, when Cinna attacked Rome, he remained inactive with his army, apparently ready to make terms with the highest bidder; his death was probably a relief to both parties. The younger Pompey came to the front in 83 B.C., when, by using the influence of his father's name, he raised three legions in Picenum and did much to ensure the triumph of Sulla. In 81 B.C. he drove the Marians from Sicily, and defeated them in Africa. He was an ambitious man like his father, and was not inclined to underrate the value of his services to Sulla; on his return to Rome he braved the Dictator and demanded a triumph, though he was an extraordinary commander; his claims were granted and he was the first non-Senator to triumph at Rome. At the time of his return from Spain he had no reason to be in any degree grateful to the Senate; they had given him his command, but only under compulsion, and were not disposed to forgive him for having so convincingly brought home to them their inherent weakness. For Pompey personally the Aristocrats had no liking; he was a member of a new family, and the son of a man who had been but a doubtful supporter of their cause; his demands gave them the opportunity of sinking their personal objections and basing their resistance on constitutional grounds, and they, dreading the idea of putting themselves entirely into Pompey's power, seized the excuse. They failed to see that Pompey wanted only a prominent position in the Republic, and continually feared that he would endeavour to establish a military tyranny. There were only two courses now open to him; he might throw in his lot with the Democrats for the time, or carry out a military *coup d'état*. There was one great objection to the latter course, even if it had not been entirely foreign to Pompey's aims and char-

acter; the legions of Crassus were still under arms and a struggle would be inevitable, for Crassus, though a far less able man than Pompey, had ambitious aims; he too was a member of the Equites, with little love for the Aristocracy, and quite ready for any policy that promised personal aggrandisement. The plan of a union between Pompey and the Democrats was rendered the more attractive by the adhesion of Crassus, who was induced to join the coalition, and thus the two generals, with their armies and the popular support, were in a position to force the Senate to accept their terms. Pompey's demands were granted when opposition was impossible and nothing could be gained by acceptance; Pompey and Crassus were elected Consuls for 70 B.C., and the fall of the Sullan constitution was assured.

Four important measures were passed in the very beginning of their Consulship. Firstly, the full Tribunician power, as it had existed before the time of Sulla, was restored; this of course entailed the disappearance of the Senatorial control over legislation, for the chief function restored to the Tribunes was their initiative in legislation.¹ Secondly, the question of the Jury Courts was settled on the lines of a compromise; a Lex Aurelia was passed by Lucius Cotta, at the instigation of the Consuls, by which it was enacted that the Judices should henceforth consist of three panels of equal numbers, Senators, Equites, and Tribuni Aerarii.² This partial concession to the Equites was not enough by itself; consequently a third measure was passed, restoring the Gracchan system of farming the taxes in Asia. Lastly, the independence of the Senate was undermined by the restoration of the Censorship with all its old powers, and the first Censors removed sixty-four members from the list. The Sullan constitution was thus utterly destroyed; the formidable Tribune was again in possession of all its old powers, and the Senate found itself helpless in the face of proposals submitted by Democratic Tribunes to the Plebs; no sphere of administration was safe from the interference of

¹ The actual terms of this law are very uncertain. Liv. Ep. xcvi. merely uses the vague phrase 'tribuniciam protestatem restituere.' It was beyond doubt a removal of the disabilities imposed by Sulla. ² Appendix.

the opposition ; any ambitious Democrat might again reduce the Senate to a nullity by Comitial laws and administrative enactments passed by a chance assembly of the citizens, far lower in character, and far less representative of the Roman populus, than the assemblies which had passed the laws of Gracchus ; moreover, the political history of the last fifty years had shown that violence was no longer the prerogative of the Senate, and that a Democrat, who rested on the support of an army or worked with the favour of a successful general, need no longer fear the fate of the early reformers.

Breach
between
Pompey
and the
Demo-
crats.

It was well for the Senate that there was little sympathy between the allies who formed the opposition ; an open breach between the Consuls was with difficulty averted, and Pompey, the predominant partner, had little in common with the true Democrats. He had been compelled to take up the opposition programme against the Senate ; but he had no sympathy with the extremists who longed for the restoration of all they had lost under Sulla, the recall of political exiles, compensation for the confiscations and vengeance on the Senatorial leaders. Pompey had gone as far as he intended to go, Crassus was little more than a nonentity, whom Pompey had been compelled to associate with himself ; consequently the coalition fell to pieces. Crassus and the capitalist class began to entertain overtures from the Senate, and Pompey, who had widened the breach between the Senate and himself, and was unwilling to make himself master of Rome by force, or to pose any longer as champion of the Democratic cause, could do nothing but retire into private life and wait for some turn of events that would give him the opportunity of again coming to the front in war.

The
Gabinian
Law.
67 B.C.

After the short-lived triumph of the Democrats in 70 B.C. the Senate was left again at the head of affairs ; but it was a precarious tenure of power in view of the possible interference of the Tribunes and Comitia in administration. By way of strengthening themselves they approached and conciliated the Equites ; they agreed to limit Lucullus strictly to the command against Mithradates, withdrawing from him the governorship of the province of Asia, where he had incurred the hostility of the Equites by restricting their exactions. A further sign

of the times was the restoration to the Equites of their special seats in the theatre (67 B.C.)—the only privilege taken from them by Sulla which they had not yet regained. The blow came from the quarter whence the Senate expected it: affairs in the East were unfavourable to Rome; piracy had not been crushed, and Lucullus, after great successes, was falling into difficulties. Pompey was chafing in his retirement, and a pretext was now ready for his return to public life. In 67 B.C. the opposition gained its triumph; two laws were passed in the Assembly; the first provided for the discharge of the Fimbrian soldiers, who had served their time in Asia, and the recall of Lucullus in favour of the Consul Glabrio. The second law was introduced by the Tribune Gabinius and enacted that a man of Consular rank should be named by the Senate to receive an extraordinary command for three years to terminate the war with the Pirates; this general to be supreme over the whole sea, and the land for a distance of fifty miles inland; to have power to raise 120,000 foot, and 7000 horse and to equip 500 ships; moreover to have an immediate grant of 144,000,000 sesterces, and the supreme disposal of all the wealth of the State, and to appoint for himself twenty-five legati, all of whom should receive Praetorian rank. The importance of this proposal cannot be overrated; it was put forward as a mere extension of the measure adopted by the Senate in 74 B.C. when they nominated Antonius to an extraordinary command against the Pirates and thereby nullified the military regulations of Sulla; but it was far more than this; it introduced an entirely new principle into the constitution. It is true that the nomination of the general was left to the Senate; but in view of the popular feeling there could be only one choice, and the fact that the name of Pompey was not actually inserted in the law goes for little. This law was intended to confer on Pompey an extraordinary command, which made him virtually master of the Roman Empire, by means of a vote of the assembly on the motion of a Tribune. It had been recognised as a principle hitherto that such special commands were in the gift of the Senate; it was the Senate that had conferred the command against the Pirates on Antonius, and the conduct of the war in Spain on Pompey himself; in only

one case had the assembly usurped this power, and that was when Marius was entrusted with the management of the Jugurthan war, and that affords no analogy with the present case, for Marius was Consul and therefore entitled to command a Roman army, while Pompey was a private citizen; moreover Marius was appointed to a special district and a limited work, Pompey was given a command almost co-extensive with the Roman Empire. Further, it gave Pompey military and financial powers absolutely without parallel; in fact it reduced the Senate, whose chief departments were the control of military and financial administration, to absolute dependence on the individual citizen to whom the assembly chose to entrust these supreme powers. Lastly the office was held for the unprecedented term of three years, and this extraordinary general was invested with the power of conferring Praetorian rank on his own legates, a result that had hitherto ensued solely upon election by the burgesses. This delegation of such power to a single citizen, whom the people set up as the master both of itself and of the Senate, was a long step in the direction of Monarchy.

The proposal met with violent opposition. The Democrats supported it, because it struck a vital blow at the ascendancy of the Senate, although they had already seen how little Pompey was really disposed to advocate their favourite schemes; at any rate the acceptance of this proposal would widen the breach between Pompey and the Senate and temporarily remove from Rome a man whom they feared, even while he espoused their cause, and it would leave the Senate to be dealt with by themselves in his absence. But the chief support of the law was found in the mass of the people, apart from any political consideration at all. The striking result of the Senatorial mismanagement was the high price of corn. The corn ships that fed the Roman proletariat were the regular prey of the omnipresent pirates. It mattered little to them whether the principle of Democracy or Aristocracy triumphed; they were not political theorists. It was enough for them that a direct outcome of the existing methods of government was semi-starvation for themselves. The Senate and the capitalists exhausted every means of opposition; the Tribunes who

ventured to exercise their veto were terrorised and the law was carried.

The new principle of extraordinary military commands, by which supreme power was entrusted to a single general, received a speedy justification in the triumphant success of Pompey; in three months the seas had been cleared of the Pirates, and the victorious general with his forces found himself in Asia, near the theatre of the war in the East. The management of the Mithradatic war was languishing, and formed a lamentable contrast to the late brilliant achievement of the general unfettered by the old constitutional procedure. Pompey's command had still more than two years to run, and it was unlikely that he could continue to hold such exceptional powers in time of peace without a struggle with the Senate. Moreover he had long been looking for the command of the war against Mithradates, and it now seemed as if this struggle could only be brought to an end by an irresponsible general; for as long as the command of the Roman forces continued to be a mere plaything of the political parties at Rome, it was hopeless to look for final success. Early in the year 66 B.C. a Tribune C. Manilian came forward with a proposal that Pompey, who was then lying inactive in Cilicia, should be entrusted with the management of the war against Mithradates and Tigranes, with unlimited power to raise the necessary men and money, and authority to make wars, peace, and alliances as he pleased; the governors of Bithynia and Cilicia, Glabrio and Marcius Rex, were to be recalled, and these provinces were to be entrusted to Pompey, in addition to the power he already held, without any definite time limit being imposed. The law was in fact a continuation of the Gabinian law; it practically gave Pompey the same general command of the Roman land forces as he already had of the navy. The law was not passed without opposition. The Democratic party, though by no means anxious to strengthen the hands of Pompey, could hardly oppose a law which was a natural extension of the principle they had themselves originated in the preceding year, and certainly the dismal

The
Manilian
Law
66 B

failures of the Romans against Mithradates were hardly less damaging to Roman prestige than the power of the Pirates had been to Roman commerce; moreover, the law would ensure the continued absence of Pompey for some years, and during the interval the Democratic party might find a leader and a programme that would free them from the fear of Pompey if he returned victorious. The strong Aristocrats led by Catulus fought hard but unavailingly; they pointed out that such supreme commands were incompatible with the Republican constitution; that they meant little else than Monarchy; that branches of the Government which had hitherto depended on the Senate and the sovereign people were being alienated to a single general. Such arguments had little effect on the people, who now looked only to their own material interests and cared little for the constitutional forms; Pompey had lessened the price of corn by his previous achievements and had earned their support.

Cicero.

The struggle over the Manilian Law is rendered especially interesting by the fact that it was the occasion of Cicero's first purely political speech; he had already appeared as prosecutor in the great political trial of Verres, and had seized the occasion to make a bitter attack on the corruption of the Senatorial juries and the consequent oppression of the provinces. Cicero was a member of a provincial and Equestrian family; he had already attained eminence as an advocate and an orator. Politically he was one of the moderate Optimates who clung to the old idea of a Republic dominated by the Senate; he was not averse to reform; he already wielded considerable influence as an effective speaker and a man of known integrity. Three years before this he had been Aedile, and in this year he held the Praetorship. His attitude on this occasion and the enthusiastic terms in which he supported the claims of Pompey have given rise to much unfair criticism; he was not a 'political trimmer';¹ in common with many others of his party he may have seen

¹ This is the verdict of Dio. 36. 43, ἐπιμφοτέρηξέ τε γὰρ καὶ ποτὲ μὲν τὰ τοῦτον ἔστι δ' ὅτε καὶ τὰ ἐκείνων ἢ ὑπ' ἀμφοτέρων σπουδάζεταιται ἐπράττε. This is adopted by Mommsen.

the hollowness of the coalition of Pompey and the Democrats; Pompey had the power, there was no means of depriving him of it; this law was sure to pass, and the best policy for the Senate to pursue was that which would secure Pompey as their ally when he returned and the contest for the favour of the great general was renewed. Nothing could be gained by opposing the law, much might be gained by a graceful concession to the inevitable. Such considerations may have helped to determine Cicero's line of action, but the true key to his behaviour is to be found in his desire at this time to gain the Consulship by means of the popular vote. He was a 'novus homo'; the Optimates might find his oratorical abilities very useful to their cause; but after all the majority of them would oppose a 'new man' as vehemently as ever; he was with them but not of them. Partly with this view he had attacked Verres; it was almost entirely with this object that he supported the Manilian Law. In his speech he makes no effort to support the proposal on its merits; its success was assured and his chief aim was to gain votes. There is no argument in it; it is merely extravagant laudation. He succeeded in his object, and at the same time had the additional consolation that as a moderate Aristocrat he was doing his duty in trying to wean Pompey from the Democratic cause. Cicero was not a statesman and he did not see that by supporting these extraordinary commands he was really knocking a nail into the coffin of the Republican constitution to which he was so attached; for the actual result of these laws was the overthrow of the oligarchy and the heralding of the Monarchy. It was a triumph not of the Democrats, but of the *people*, who had no theories on oligarchy and democracy, but wanted *efficiency* of administration.

CHAPTER XIII

THE DEMOCRATIC OPPOSITION AND THE CATILINARIAN CONSPIRACY

The parties during Pompey's absence. **T**HE oligarchy was thus overthrown by the people, but the Democrats had not by any means stepped into its place; the general, by whom the people had replaced the government of the Senate, was in Asia; the vital struggle must remain pending till his return. All the power of Rome was virtually in his hands; neither the Democrats nor the Senate had any real power in Rome, and for the most part the period of Pompey's absence was occupied by aimless contests on points of little importance, between political theorists, oligarchs and democrats, none of whom had a shadow of actual power.

Democratic measures. **A**lready in 67 B.C. a Tribune C. Cornelius had carried certain laws which aimed at removing abuses; the dispensing power of the Senate was limited; the Praetor was bound in administering the law to adhere strictly to the terms of the edict which he published on entering office; the lending of money to foreign ambassadors at Rome was prohibited; and stricter penalties were enforced for corrupt practices at the elections. One other scheme with which the Democratic leaders identified themselves was the conferment of the franchise on the Transpadanes, which Crassus who was Censor in 65 B.C., tried to effect by inscribing them on the citizen roll; but his action was nullified by the resignation of his colleague, which according to custom necessitated the retirement of Crassus as well. Such victories of the Democrats were of little use; they merely emphasised the helplessness of the Senate, without doing anything to secure ascendancy for themselves; while the personal attacks, which were

being continually made on the Optimates, only served to keep alive the mutual hostility of the parties.

On the departure of Pompey the most prominent man in Rome was his colleague in the Consulship. The wealthy Crassus had little affection for the Optimates; he had already once joined the Democrats to gain the Consulship, and, being an ambitious man though blest with no great abilities, he soon saw that he had little chance of attaining to any great distinction by remaining a member of the Conservative party, and that his personal interests could be best secured by continuing his union with the Democrats. Among the other members of this party was Gaius Julius Cæsar the nephew of Marius. Cæsar had early in life identified himself with the anti-Senatorial party; he married the daughter of Cinna, and boldly refused to divorce her when ordered to do so by Sulla. Elected Quæstor for 68 B.C., he signalised his year of office by boldly displaying the bust of Marius at his aunt's funeral, and as Aedile, three years later, he restored the triumphal emblems of Marius in the Forum. He had given abundant evidence by these acts of his opposition to the Optimates, and now found himself in alliance with the great money-lender Crassus, who was using the Democrats for his own ends.

On the very day on which Cæsar entered on his Aedileship, a plot was to be consummated from which he was to reap no small immediate advantage. Side by side with the Democrats, there existed in Rome a party of Anarchists, who helped to secure the petty victories over the Senate, but who wished to strike deeper and thirsted for something more than mere academical triumphs. Led by Catiline and other ruined nobles who had once belonged to the Sullan party, they formed a plot to murder the new Consuls on the first of January, to make Crassus Dictator, and Cæsar master of the horse.¹ What their ultimate plans were we do not know; Cæsar's complicity which is generally regarded as proved is exceedingly doubtful; but it would certainly seem

¹ Suet. Jul. 8 merely says Cæsar was suspected of complicity, 'Venit in suspicionem conspirasse.' Sallust does not mention Cæsar at all, and makes Catiline alone the author of the plot.

that the main object was to get for the Democratic leaders a position in Rome that would enable them to meet Pompey on equal terms, and free them from the dread they felt at the prospect of Pompey's triumphant return with a victorious army. It was fortunate for Cæsar that the plot came to nothing, for the result could only have been a terrible internecine struggle between the two parties of nearly equal strength. A renewal of the scheme a month later was equally unsuccessful, and the secret became widely known; but no steps were taken to punish the conspirators, for the Government, in its weakness, thought it better to let the matter drop than to take severe measures, and by doing so to exasperate a band of desperate men.

Attempts
to get a
military
command
for Cæsar.

The threads of the conspiracy were however kept up, though for the time the Democrats tried other means for getting a counterpoise to the power of Pompey. Such was the proposal made by a Tribune in 63 B.C. to entrust Cæsar with military power to restore Ptolemy to the throne of Egypt; but the aim of this proposal was clear, and no party in Rome was anxious to do anything hostile to Pompey. The news of Pompey's successes in Syria showed the Democrats the pressing need of accomplishing something, and an attempt was made to secure the desired position for Cæsar or one of his friends by the Agrarian Law of Rullus at the end of 64 B.C. This extraordinary measure had for its professed object the founding of colonies in Italy; to this end the leased *Ager Campanus*¹ and *Campus Stellatis* were to be parcelled out among colonists; but these tracts being quite insufficient, other lands were to be acquired by purchase. The money for this was to be raised by the sale of all State lands outside Italy; but more especially the revenues of the new provinces being organised by Pompey were to be applied to this purpose. To carry out this long and elaborate scheme ten Commissioners were to be appointed who must be candidates in person (a provision which expressly excluded Pompey), and who were to hold office for five years. They

Agrarian
Law of
Rullus.

¹ This was the domain land from which the 'possessores' had been expelled with compensation (165) see p. 240.

were to be invested with special jurisdiction, and the Imperium and rank of Praetor. It was clear to everyone that such vast financial and military powers were entirely unnecessary for Agrarian Commissioners,¹ and that the law was a purely political move; the populace showed no enthusiasm for it; they preferred their corn doles in the city to distant allotments. The opposition to the scheme was led by Cicero, and was triumphantly successful; it showed itself so strong that the bill was withdrawn. It was only a poor compensation for this defeat that the Democrats revived the old Criminal jurisdiction of the Comitia, and at the same time championed the sanctity of the Tribunate, by the impeachment of Rabirius on a charge of 'perduellio,' the charge against him being that he had killed Saturninus thirty-seven years before. This Comitial jurisdiction had never been abolished *in law*, but had lain dormant for many years, and any attempt to bring it to life again, when the Comitia were so utterly worthless, could have no useful effects. It was intended as a retaliation for the defeat on the Agrarian Law, and was at best a purely academic victory.

Meanwhile the conspiracy that had twice failed owing to the carelessness or indecision of the chiefs was assuming a much more serious aspect. For some reason, probably because of their own well-understood weakness, and a suspicion that there was some strong influence behind the nominal leaders of the conspiracy, no steps were taken to punish even those whose guilt was well known. Catiline, who had been prosecuted in 65 B.C. on a charge of 'Repetundae', had been acquitted; he was notoriously the most violent member of the former conspiracy and its nominal head. It was decided to resume the secret plot against the Government; Catiline himself and Antonius, another old member of the Sullan party notoriously bankrupt and corrupt and ready to join the Democrats at the price of the Consulship, were put forward as candidates for the Consulship of 63 B.C. These two candidates were supported by all the influence and wealth

Second
Conspiracy
of Catiline.

¹ Cicero in his speech on the Agrarian Law alludes to them as 'Decem reges.'

of Crassus and the other Democrats, and it might have gone hard with the Aristocrats but for the appearance of Cicero as a candidate. Cicero was by no means an ideal Optimate candidate, but in the circumstances the Senatorial vote went entirely for him; the party of material interests, not knowing what might result from the return of two violent democratic Consuls, gave their support; the Italians and middle classes stood by one who posed as the successor of Scipio and the champion of the Moderate party; while the eloquence he had lavished on Pompey at the time of the Manilian Law secured him the votes of the Pompeian party. The prospects of the Democratic party were destroyed at once; Cicero was returned by an enormous majority, with Antonius as his colleague, whom he at once detached from the Democratic party by voluntarily resigning to him the rich province of Macedonia. Catiline was almost immediately accused before the Tribunal 'Inter Sicarios,' of which Cæsar was President, and acquitted.

Every effort made by the Democrats had failed; nothing remained but to acquiesce in their defeat, quietly to await Pompey's return and submit to the military Dictatorship they feared, or to revive the violent schemes of 65 B.C. The extreme party, the Anarchists, of whom Catiline was the leader, decided on the latter course, and a new plot was formed to murder Cicero when he held the Consular elections for 62 B.C. and secure the return of Catiline at all costs. Their general aims seem to have been plunder and pillage; with two of their own party in possession of the Consulship they could bring in Socialistic measures and set up a government on the lines of Cinna's tyranny. The plan for murdering the Consul and simultaneously supporting the rising in Rome by an insurrection in the North of Italy was discovered by Cicero. Consequently while Manlius raised the standard of revolt at Faesulæ the conspirators found every move checkmated by the vigilance of the Consul at Rome. Foiled step by step the conspirators became desperate, entered into treasonable relations with the envoys of the Allobroges, and formed a general scheme of murder and pillage, their programme including the firing of the city. The correspondence

with the Allobroges was seized, and the Senate for the first time took strong measures, though the *Senatus Consultum Ultimum* had been passed as long ago as October 23rd. Catiline had joined the insurrectionists in Etruria; but Lentulus, Cethegus and other leaders were arrested, and on the 5th of December took place the famous debate in the Senate on the punishment to be meted out to them.

This debate is noteworthy because of the great question that arose out of it. The Consul elect, Silanus, opened the debate and moved that all the five prisoners should be put to death; he was followed by all the Consulars. Caesar, the Praetor elect, came next; his speech is of great importance; he fully acknowledged the guilt of the accused, and made no effort to extenuate the heinous nature of their offence; but he urged the necessity of scrupulous adherence to strict constitutional law. He laid stress on the fact that the law forbade the execution of a Roman citizen without the verdict of the people, and proposed as an alternative that their property should be confiscated, that they should be kept in safe custody in various Italian towns, and that it should be illegal for anyone to propose their release; that is to say Caesar proposed confiscation and imprisonment for life. This proposal is only reconcilable with strict law on the ground that Roman law did not recognise imprisonment 'as a punishment but only as a harsh method of safe keeping,' and therefore, though the Senate might not be legally empowered to sentence a citizen to death, there was no law to prevent them imprisoning a man for life.¹ So great was the effect of Caesar's speech that the Senate wavered, and Cicero intervened in the debate. The Fourth Catilinarian is by no means the speech of a strong man with a clear conception of the needs of the case and a determination to play his part with firmness and vigour. Cicero favoured the motion for the execution of the conspirators, but he scarcely touches on the important question of constitutional law which Caesar raised. He points out many difficulties in the way of Caesar's plan, and spends some

The debate on the punishment of the conspirators.

¹ See Strachan Davidson's 'Life of Cicero,' p. 156. Cf. also the discussion of this question in Warde-Fowler's 'Caesar' and Prof. Tyrrell's introduction to the 'Correspondence of Cicero.'

oratorical ingenuity in proving that the alternative sentence of death was much the less cruel of the two. On one point only he expressed himself with some decision, the inadvisability of any delay; for the rest the speech is marked by all Cicero's characteristic timidity; it is the speech of a man who found himself in a very difficult position, who wished to leave all the responsibility of the choice to the Senate, and who, while hinting at his own preference, was anxious not to commit himself too deeply. When the deed was done Cicero's inordinate vanity led him to take on his own shoulders the burden of a decision that did not really belong to him, a piece of arrogance that he lived to regret bitterly.

Cicero's words produced little effect; they left their hearers in the same perplexity as before, with the cogent argument of Cæsar entirely unanswered. It was Cato who turned the scale. Apart from the one legal quibble that these men were in exactly the same position as malefactors taken in the act, whom the law allowed to be executed without trial, Cato addressed himself purely to the practical aspect of the case. Catiline was in Etruria with an army; the decisive consideration should be the necessity for striking terror into the enemy. The prisoners were guilty beyond any doubt; immediate execution was the only punishment that could assure the safety of the State. This reasoning won the day and the prisoners were executed.

Cicero and
the execu-
tion.

The sentence had scarcely been carried out when murmurs began to be heard from the Democratic party; Cicero had acted unconstitutionally, in direct defiance of the Sempronian Law of C. Gracchus, by which it was declared illegal to put a citizen to death without the verdict of the people. It would almost seem that Cicero had at the time hardly considered the legal and constitutional side of the question at all. Subsequently he was compelled to do so and he based his defence on two leading arguments; firstly, that conspirators caught in an act hostile to Rome were not citizens any longer (*cives*) but public enemies (*hostes*), and had forfeited all the rights of citizens; secondly, that the passing of the *Senatus Consultum Ultimum* ('*videant Consules ne quid detrimenti respublica capiat*') virtually invested the Consuls with Dictatorial power

and gave them the right of summarily executing the conspirators. The first of these arguments is really a quibble; no case of treasonable correspondence between a citizen in Rome and an enemy in the field had hitherto been dealt with; there was no precedent to justify Cicero's claim that Lentulus was a 'hostis,' and though in actual fact there was little to choose between Catiline and Lentulus, the former *was* in arms against his country, the latter was *not*, and in that lay the vital distinction in point of law. No decree of outlawry had been passed; Lentulus was arrested in Rome, and could legally claim all the privileges of a citizen. The second argument is the more important, as an answer to the argument on which Cæsar based his speech. Unfortunately we do not know the exact terms of the Sempronian Law; it certainly provided against the execution of a citizen 'Iniussu Populi.' Now Cicero's contention virtually amounts to this: that the passing of the Senatus Consultum Ultimum suspended this law of Provocatio and gave the magistrate full power of life and death over the citizens; and this was evidently the very point on which Cæsar and the Democrats joined issue with him, they maintaining that the law of Gracchus was final and admitted of no exceptions. No actual precedent could be found to support Cicero's claim. He quotes as analogous the cases of Gaius Gracchus himself and Saturninus, both of whom had been killed by the forces of the Government after the passing of the Senatus Consultum. Neither of these precedents can be allowed to stand; Saturninus was actually under arms and had seized the Capitol; Gracchus was reported to be in arms in Rome. Further, both of them were put to death by the Consul and his supporters *immediately* on the passing of the decree as a matter of urgency, and in neither case was there any arrest or semblance of trial in the Senate.

Further, there arises the general question whether even in the two cases above quoted the action of the Consuls could be legally defended, that is whether the Senate could constitutionally invest the Consuls with power of life and death by their decree. For it must be remembered that during the long period of Senatorial Ascendancy the Government had

gradually usurped many prerogatives not strictly belonging to it in constitutional law, and we know of no provision investing the Senate with this power. In fact it seems to have been a Senatorial device to replace the Dictatorship. This is a point which cannot be satisfactorily settled; it was one of the many cases where practice seems to have been irreconcilable with law. As long as the Senatorial Ascendancy was unquestioned the Senate used this power; but the Democrats never seem to have recognised it. Popillius was indicted for his proceedings against the adherents of Tiberius Gracchus; even Rabirius was indicted by the party of Cæsar many years after for the murder of Saturninus.

Many widely different views have been held on the legality of Cicero's proceeding. It has been branded as a brutal, judicial murder¹; it has been upheld as a righteous and prudent act.² It is hard to arrive at a definite decision on what virtually resolves itself into a question of authority—Cicero on the one side, Cæsar on the other. Cicero maintains that the decree of the Senate constitutionally invested the Consuls with the necessary power, Cæsar declared that it was a direct violation of the law of Gracchus, which was of universal application; while it is quite certain that the plan of consulting the Senate and so shirking the responsibility had no precedent. If we must decide between these two views it is worth while to remember that Cæsar was a statesman and took his stand from the first on constitutional law; Cicero was at best a short-sighted politician, who at first took his stand on expediency and afterwards evolved the arguments to defend his line of action. The probabilities seem to incline to the view that the *Senatus Consultum Ultimum* was strictly unconstitutional; it was a convenient weapon against the Democrats; but had never been recognised by them as thoroughly legal, though it was supported by constitutional practice.

The one plea which could be urged in favour of the execution of the Catilinarians was that of expediency; the other line of defence was an after-thought. But even the plea of necessity in this case falls to the ground. Cicero was a timid man who overestimated the danger; Catiline himself

¹ Mommsen, *Rom. Hist.*

² Strachan Davidson's 'Cicero.'

was no doubt a sufficiently unprincipled scoundrel,¹ but he had not the ability to be really dangerous, and after he left Rome there was no strong party of malcontents in Italy to give him the support that had been accorded to Cinna. The rest of the conspirators, Lentulus, Cethegus and his followers, were contemptible blunderers; their plans were known and they were too closely watched to effect anything, even if they had been far more resourceful than they were. Their arrest was all that was needed to bring the conspiracy to grief; operations might have been undertaken against Catiline and proceedings taken against his accomplices in the regular manner afterwards. A short delay would not have been dangerous, and the Optimates would have avoided placing the winning cards in their opponents' hands. But Cicero lost his head at the critical moment, and the Senate allowed itself to be unduly influenced by the pedantic and unpractical Cato. In short, the execution of the Catilinarians seems to have been strictly unconstitutional in theory and highly inexpedient in practice.

Another point which has given rise to scarcely less discussion is the question of Cæsar's complicity in Catiline's schemes. The prevailing view is that it has been proved beyond a doubt 'historically if not juristically.' The arguments on which this conclusion is based are these: Cæsar and Crassus were to reap great advantages from Catiline's first conspiracy, and they were his chief supporters for the Consulship of 63 B.C.; in 64 B.C., when Catiline with the other Sullan executioners was put on trial before the Court of which Cæsar was President and many of the less infamous men were condemned, he was acquitted; on December 3rd Cicero received a list of the conspirators' names, which is supposed to have included Cæsar's;² of those who were seized the two least dangerous, Statilius and Gabinius,³ were given to Cæsar and Crassus to keep

Cæsar and
the con-
spiracy.

¹ A brilliant estimate of Catiline is given by Prof. Tyrrell in his introduction to the 'Correspondence of Cicero.'

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in custody, the object of the Government being to put them in a dilemma, for if they allowed the prisoners to escape they convicted themselves, while if they supported the Government they became traitors in the eyes of the conspirators; the messenger sent to Catiline after the arrest of Lentulus who was caught and promised immunity if he confessed, named Crassus among the guilty, but was then stopped by Cicero with the approval of the Senate, who cancelled the whole statement and imprisoned him; Cæsar was in later years closely allied with Sittius the only remaining Catilinarian; lastly Suetonius¹ expressly tells us that Cæsar was mentioned by name on more than one occasion, as being concerned in the conspiracy, and that a certain Vettius promised to supply an autograph letter from Cæsar to Catiline proving his guilt.

Such is the evidence on which Cæsar's guilt is generally admitted. The most direct accusation is the last mentioned; but its value is much discounted by the fact that Suetonius is notoriously hostile to Cæsar; moreover even though Vettius did make such a statement there is no reason why we should accept it as true, for he was a professional spy at this time in Cicero's pay ('*noster ille index*') who distinguished himself in 59 B.C. by accusing Cicero, Lucullus and other Senators of plotting the murder of Pompey. His evidence has not been accepted in the latter case. Moreover the accusation of Cæsar by Curius rests only on hearsay. One can hardly imagine that Catiline would be very scrupulous in his statements. The remainder of the evidence if carefully sifted will be seen to be very far from conclusive; it is perhaps stronger against Crassus than Cæsar, but in both cases it proves little more than that they were generally friends and supporters of Catiline, who was like themselves an opponent of the Senate; Cæsar was naturally anxious to secure all the support possible for his party and therefore helped Catiline in his candidature for

¹ Suet. Julius, 17. Recidit rursus in discrimen aliud, inter socios Catilinae nominatus, et apud Nouium Nigrum quaestorem a Lucio Vettio et in senatu a Quinto Curio. . . . Curius a Catilina se cognouisse dicebat, Vettius etiam chirographum eius, Catilinae datum, pollicebatur.

the Consulship, and, if he used his influence as President of a criminal court, he only did what was usual in securing the acquittal of a political ally. Most of the evidence adduced above merely goes to show that the Senate and Cicero himself strongly suspected Cæsar, so strongly indeed that the young nobles who armed against the incendiaries were with difficulty restrained from killing him. It is possible to see in Cæsar's speech in the Senate a veiled threat of reprisals; but this may equally well be a perfectly rational assurance of the natural effort at reprisals which was sure to be made as soon as the popular party, forgetting Catiline's crimes, began to regard his overthrow in the light of a Senatorial triumph.

It has been argued that the general paralysis of the Government in the presence of the conspiracy, and the strange apathy which allowed the conspirators to continue their plans long after they had become known, point clearly to some powerful influence at the back of the plot. In reality they signify nothing more than the suspicion of the Senate that this was the case, a suspicion by no means unnatural in view of the relation in which Cæsar was supposed to have stood to the conspiracy of 65 B.C. The strongest argument against Cæsar's complicity is the fact that he is nowhere directly accused by Cicero. Plutarch indeed tells us that he was; but no such charge is made in any of Cicero's letters where we should surely have found it. For the moment reticence might have been dictated by feelings of prudence; but in later years, when Cæsar was the 'perditus civis' and Cicero was hunting up accusations against him, he could hardly have failed to mention this, if there was any ground at all for it.¹

It remains only to consider the position of Cæsar and the Democratic party at the time. Pompey was on the point of returning, and when the reckoning came they would find themselves powerless in the face of the Asiatic

¹ Of the authorities on the matter Suetonius is generally unfavourable and Sallust favourable to Cæsar. Appian and Florus probably derived their accounts from Sallust, Plutarch and Dio from Cicero's treatise on his Consulship '*περί βουλευσεως*.' Cicero himself gives us no assistance.

army. They had tried every expedient to secure an appointment that would enable them to face Pompey on equal terms; the proposal for the settlement of Egypt and the Agrarian Law of Rullus had both aimed at this object and failed. The conspiracy of Catiline has often been regarded as the last effort of a desperate party to the same end; by any means the Government must be secured by the Democratic leaders. But the actual facts of the case strongly refute this idea. The wild schemes of the conspirators alienated all moderate citizens from the Democratic cause, and frightened the Equites into a close union with the Optimates. The result was a universal outburst of hatred and execration against the conspirators and all who were thought to be involved. Moreover, while the Democrats had every reason to regard Pompey as a lukewarm ally, he had not yet broken with them; the success of the plot must have caused Pompey at once to throw in his lot with the Optimates, and the anarchy that would have prevailed in Rome must have led to an immediate recall of the Eastern army to restore order, and the Democrats would have had no forces available to meet them. In fact the success of the plot would have produced the very result which Cæsar was so anxious to avoid, and on this ground alone we shall, while admitting Cæsar's general sympathy with the political objects of Catiline, be justified in refusing to admit his complicity in the schemes of violence and pillage. Cæsar was a clear-headed statesman; he knew that Catiline entertained revolutionary designs that would bring great discredit on his party, and he tried to buy him off by constitutional means, by helping him to the Consulship and thence to a provincial governorship, where he could fill his pockets and relieve himself from the load of debt that overwhelmed him, just as Cicero detached Antonius from the revolutionists.

It is noteworthy that Plutarch relates how Cæsar and Crassus sent Cicero warning of the plot to murder him; and though no reliance can be placed on this statement, it is intrinsically more probable than that Cæsar was concerned in the plot himself. Cæsar had in fact already formed his plans.

Catiline aimed at a temporary ascendancy founded on violence like the supremacy of Marius; Cæsar's aims were more far-reaching and statesmanlike. His object, as shown in the proposal about Egypt, was to secure a province to make his preparations against the Government and strike a blow from without. If he could gain this position before Pompey's return, so much the better; if not there was nothing left but to play a waiting game, to get the Consulship and trust to the future to give him the position he desired. Cæsar probably knew all Catiline's plans; but the conspirators proved themselves such helpless bunglers that failure was assured, even if we do not accept the statement that Cæsar divulged the plot to Cicero. It was a dastardly conspiracy; but the danger of it has been much exaggerated and the capabilities of the conspirators themselves greatly overestimated in consequence of Cicero's incessant panegyrics on himself. Cicero had convinced himself that he was the saviour of Rome; the people under the influence of the excitement caused by the discovery of the conspiracy believed it; the great orator's vanity led him to perpetuate the idea and to paint the character of the chief conspirator in colours that were suitable to a villain of melodrama, but far too vivid for sober history.

CHAPTER XIV

THE TRIUMVIRATE

Cicero and the 'concordia ordinum.'

SINCE the time of Gracchus the financial party, the Equites, had been continually increasing in importance as a factor in the politics of Rome; it had never been more important than it was now. Everyone who had attacked the Senate had found it necessary to win the support of the Equites; they stood between the two parties and held the balance of political power; with the Democrats and Optimates in a state of equilibrium the addition of their support was always decisive, and the same still held good as long as the struggle remained purely political and the weight of the army was not thrown into either scale, in which case of course all political considerations became unimportant. The leading man in the eyes of the public at this time was the Consul who had successfully combated the late conspiracy. The Democratic jurists might murmur at the executions and condemn them as a breach of constitutional law; but the majority of the people accepted Cicero's achievement at his own valuation, and Cicero was not the man to let that be a low one. For the first time for many years the Senate found its cause represented by a popular Consul; he was by no means a man after the accepted aristocratic model; he was not a pedantic 'laudator temporis acti' like Cato, nor an exclusive Tory of the type of Lucullus; nor was he a brilliant statesman; but he had sufficient political acumen to grasp the existing situation and utilise his popularity to the full in the interest of his party. The conspiracy of Catiline had brought about the same union of the Optimates and Equites that had previously resulted from the attempted revolution of Saturninus. Cicero grasped the possibilities of the situation; the union of the two orders must be cemented and maintained by

every possible means ; the 'Concordia ordinum' became his political ideal ; it only remained to secure the adhesion of Pompey to the cause. Such was the aim of Cicero ; the two orders would present a firm front to the Democratic party in Rome ; Pompey was to be the obedient general of the Senate and to support by the prestige of his victories abroad the influence of the combined orders at home. Cicero looked back for his model to the times before the reform movement of the Gracchi had begun. The Senate was again to be the governing power in Rome ; but it would use its powers well with the experience of the last eighty years before its eyes. With Pompey for its Scipio and Cicero for its Laelius and an upright Republican Senate, Rome might enter again upon a golden age of prosperity and peace.

In view of the humiliation of the Democratic party and the general enthusiasm showered upon Cicero this scheme appeared for the moment by no means out of the range of practical politics. But Cicero had no conception of the extent to which three generations of remorseless political strife had ruined all that was best in the Roman character, and rendered the existing institutions inapplicable to the changed circumstances of his time. Rome must be governed either by the Comitia or the Senate ; either the Senatus or Populus Romanus must be the sovereign power. The assemblies had long ceased to be in any sense representative. With a citizen body coterminous with the limits of Italy, and a Comitia generally composed of little else than the city mob, swayed by the passions of the moment and venal beyond all comparison, the idea of a sovereign people expressing its will by votes of the assemblies was hopelessly out of date ; the people could only rule by delegating its sovereignty absolutely to an individual, and thus the logical outcome of the Democratic policy was Imperialism. The only alternative with the Roman institutions was government by the Senate ; this had been tried and failed. In the early years of the second century the rule of the Senate, though far from perfect, had been by no means bad ; but the triumphs of the Roman arms, the removal of all possible rivals to the world empire of Rome, had been fatal to the character of the ruling aristocracy. The Opti-

The parties in Cicero's day.

mates of Cicero's day were hopelessly corrupt; their chief aim in political life was to fill their pockets with the plunder of a province; the assaults that had been made on them from time to time made them cling the more obstinately to the remnants of their powers. Confronted with the uncertainties of the future they harped upon the glories of the past and either withdrew from political life like Lucullus, or degenerated into unpractical and short-sighted obstructionists like Cato, always ready to provoke their opponents by senseless opposition and animated by a passionate adherence to their narrow and antiquated ideas of Senatorial government. A party of Catos would have been an awkward band to lead, but Cato was at least honest; the heterogeneous body united for the time by the conspiracy of Catiline was far beyond the control of a weak hand like that of Cicero; their patriotic professions only served as a cloak for their selfish aims, and the 'Concordia ordinum' heralded by Cicero with such enthusiasm was soon to be included among the other empty ideals of Roman politicians.

Pompey
and the
Roman
parties.

The parties in Rome now began a diplomatic struggle for Pompey's support. In December 63 B.C., Pompey had sent Metellus Nepos to Rome to gain the Tribunate and propose the investment of Pompey with the command against the Catilinarians. The conspiracy in fact seemed likely to secure for Pompey the continuance of the military command that he so much desired. From the beginning of his career Pompey had been regarded with suspicion by the Aristocrats, and the attempt of Metellus to secure him the command in Italy was met with violence. This gave the Democrats their chance of nullifying all Cicero's schemes. Cicero himself would have perhaps been willing to make almost any concessions to Pompey to secure his adhesion to the Optimate cause; but the Aristocrats followed Cato and opposed all the proposals of the Tribune Metellus so effectively that he had to fly from Rome and return to Pompey. Caesar grasped the situation; as Praetor he supported Metellus with such energy that the Senate suspended him — an unconstitutional proceeding which he entirely ignored. Further he carried a proposal that the honour of finishing

and dedicating the new temple on the Capitol on which Catulus the Optimate had been engaged for fifteen years should be taken from him and given to Pompey. The Senate had thus effected a breach with Pompey and thrown him again into the arms of the Democrats. Not understanding Pompey's aims, and fearing an attempt to found a monarchy by force of arms, they compelled him to look for support to the party that had first elevated him. Pompey wished for a perpetual military position; but he would have allowed the general administration to remain with the Senate; he would have preferred to be the general of the Senate rather than of the Democrats. By refusing to place themselves in the hands of Pompey the Senate only strengthened the opposition and forced into alliance with the Democrats the one man who could have helped them to preserve at any rate a semblance of their power.

Nothing shows more clearly that Pompey did not aim at subverting the constitution by means of his army than his conduct when he landed in Italy in 62 B.C.; Rome was then at his feet; he had only to stretch out his hand to grasp the crown. He disbanded his army and proceeded to Rome where a decidedly cool reception from all parties awaited him. When he came to formulate his demands he found himself thwarted at every step by the Optimates; a second Consulship for himself was unconditionally refused; the confirmation of his acts in the East 'en bloc,' was met by the amendment that they should be examined and passed in detail; and lastly, an assignation of land for his soldiers, which was finally put into the form of an Agrarian Law by Flavius, was rejected. Such was the vexatious opposition with which Pompey was met by the Optimates; nothing remained for him but to withdraw again into private life.¹

But in spite of the rebuff Pompey had received Cicero was still labouring to maintain his ideal coalition, and so favourably were his advances received by Pompey that the latter received the nickname of Gnaeus Cicero. The breach

Retire-
ment of
Pompey.

Pompey
won over
by Cæsar.

¹ This loyalty to the Republic is perhaps the one pleasing feature in Pompey's career. It is selected by Mommsen as the final proof of his incompetency and cowardice.

between the Optimates and Equites was already beginning; the acquittal of Clodius in 61 B.C. by a jury composed two-thirds of Equites handsomely bribed by Crassus had exasperated many of the Aristocrats, and another cause of disunion was becoming prominent. The only way of attaching the Equites had been repeatedly shown to be the fostering of their financial interests. At this time the great financial syndicates who had taken the contract for farming the taxes of Asia had over-reached themselves and complained that they had paid too much. With utter shamelessness they asked the Senate to cancel the bargain or make some remission. This brazen demand was supported by Cicero; he admits that it was a shameful job; but his political panacea was the 'Concordia ordinum' and he was prepared to do anything rather than vitiate that. But the short-sighted Senate blundered again. They refused to meet the request of the Equites and left this powerful party with a standing grievance to await the return of Cæsar, who in 60 B.C. seized the opportunity with characteristic tact. He came back from Spain, which he governed as Propraetor in 61 B.C., to find the Equites and Senate drifting apart, Cicero powerless to direct the Optimates on any rational course, and Pompey still in high dudgeon over the refusal of his requests. He stood for the Consulship of 59 B.C. and was successful. He won Pompey by the promise that his acts in the East should be ratified and his soldiers provided for by an Agrarian Law; and the Equites by undertaking that part of the money paid by them for the Asiatic taxes should be remitted. Thus a strong coalition was formed by Cæsar the Democrat, Crassus the great capitalist, and Pompey the great general, almost the same combination which had overthrown the Sullan constitution eleven years before, and in face of such a league the Aristocracy found itself impotent. This coalition is generally called the First Triumvirate, a misleading term, because the word 'Triumviri' implies a definite position in the constitution; the union of the three leaders in this case was informal and depended merely on an agreement between themselves.

The Co-
alition.

By the exercise of ordinary political acumen the Senate

might have prevented such a coalition. The whole credit of the scheme rests with Cæsar; it was a great achievement; Pompey's predominance was hampered by his association with Cæsar and Crassus; and Cæsar had the assurance that, when the time came for him to go to his province after his Consulship, he could leave in Rome a powerful colleague who would keep the Aristocracy in check till he himself could work out his plans and dispense with Pompey altogether. It was a master-stroke of political craft thus to employ the services of his great military rival for his own ends, and it was only possible by reason of Pompey's political incapacity; for the successful general had no conception of Cæsar's aims, and in this respect probably he was little blinder than most of his contemporaries. Cæsar was the leading spirit of the coalition, but he did not appear so to his colleagues or the Romans of that day; the Democratic leader, who had only some comparatively small military successes in Spain to boast of, was not seriously thought of as a possible rival to the great conqueror of the East. Pompey was the leader and Cæsar the lieutenant in the eyes of their contemporaries and of Pompey himself; the idea that Pompey and Crassus were merely pawns in the great game which Cæsar was playing would have appeared ludicrous to the ordinary contemporary observer of political affairs.

In 59 B.C. Cæsar as Consul prepared to fulfil his promises; for the veterans of Pompey he proposed an Agrarian Law which provided for the resumption of the Campanian domains and the purchase of other lands in Italy out of the new revenues derived from Pompey's Eastern conquests; this allotment was not restricted to the veterans; they were merely recommended to the Commissioners, of whom twenty were appointed; the Law was intended to provide for a large number of poor citizens. Secondly he proposed the ratification of the acts of Pompey. In the desire to follow strictly the ordinary rules of procedure he introduced these measures first before the Senate; but the nature of the opposition showed that their rejection in the Senate was assured, and he brought them before the assembly where again the Aristo-

Cæsar's
first Con-
sulship.

crazy tried every means to hinder him; the Tribunician veto was interposed, Bibulus found unfavourable signs in the heavens, efforts were made to raise a riot, but Cæsar persevered, the two bills were carried, and with them the proposal to remit one-third of the purchase money of the Asiatic taxes to the Equites.

The
Vatinian
Law.

The triumph of Cæsar was complete; the Aristocracy felt itself powerless, and for the rest of the year merely indulged in futile obstruction, while Cæsar strengthened his alliance by the marriage of his daughter Julia to Pompey. One more important measure enacted by him during his Consulship was the *Lex Julia Repetundarum*, for the better government of the provinces; the existing laws were extended; the penalties for corruption were increased, and all members of the governor's staff, as well as the governor himself, were made liable to prosecution and punishment. But there was one other point still to contest; the Senate in the previous year had selected as provinces for the Consuls of 59 B.C. the internal administration of Italy, the supervision of the roads and the like; this had been done because Cæsar's success in the elections was practically assured. Cæsar's plan had from the beginning been to get an important military command; it was not likely that he would allow all his aims to be defeated by such a palpable piece of manœuvring as this. He fell back on the principle of conferring extraordinary commands by popular vote, and the Tribune Vatinius proposed a law conferring on him the province of Cisalpine Gaul and Illyricum for five years, with the same power of creating ten legati of Praetorian rank that had been previously conferred on Pompey. The importance of this particular province was that Cæsar would be at the head of the legions nearest to Rome (for under normal circumstances it was unconstitutional to station troops in Italy itself), and could from the North watch over the affairs of Rome and prevent the cancelling of his laws which he had reason to anticipate. The Senate could only submit, and on the proposal of Pompey they added to his command the province of Narbo, and one more legion to the three stationed in Cis-

alpine Gaul. Lastly instead of dating from the first day of January 58 B.C., Cæsar's command began nominally on the first day of March 59 B.C., and ended on the last day of February 54 B.C.

As a further safeguard against the anticipated attacks of Cæsar and the Aristocracy on his laws during his absence, Cæsar tried hard to win over Cicero to his side. He offered him a place on the Agrarian board, or a 'libera legatio,' whereby Cicero might absent himself from Rome on an honourable pretext and travel at the expense of the State, or a place among his legati in Gaul. Cicero however refused all offers. His removal from Rome was important to Cæsar, for his opposition to the coalition was never in doubt, and his influence has been not inaptly compared to the influence of the Press in modern politics.¹ The Triumvirs determined to teach him a lesson and leave him to the mercies of Clodius, who longed to attack him in revenge for the evidence Cicero had given against him on his trial for violating the mysteries of the Bona Dea in 61 B.C.; the pretext to be used was the execution of the conspirators in 63 B.C., without the verdict of the people. Another opponent to be assailed was Cato, who had boldly announced his intention of getting Cæsar's laws repealed; the champion of the ultra-Aristocrats was sent to regulate the affairs of Byzantium and annex the island of Cyprus.

For 58 B.C. the Consuls were Gabinius and Piso, friends of Clodius the Triumvirs; but the chief actor on the political stage was the Tribune Publius Clodius, the most famous organiser of street riots that Rome had yet produced. With the support of Cæsar's army, which remained near Rome till his ends were achieved, a number of Democratic measures were carried. Among them were a corn law for distributing corn gratis; a law 'de auspiciis' annulling all religious checks on legislation;² the cancelling of a previous measure which had abolished the 'street clubs' (collegia compitalicia), an organisation of the rabble intended to facilitate the arrangement of riots and disturbances; a law aimed at Cicero

¹ Prof. Tyrrell, Introduction to Cicero's Correspondence.

² *i.e.* it repealed the Aelian and Fufian laws, see p. 234.

condemning to exile anyone who had executed a citizen without trial; and also the assignment of Macedonia and Syria as provinces for 57 B.C. to the Consuls of the year. Not until these steps had been taken did Cæsar set out for his province, and his withdrawal served to bring again into relief the incompetence of Pompey in politics. He could not control his subordinates; he had evoked the spirit of anarchy, and he could not lay it. Clodius with his mob was master of the streets and master of Rome, and the great general could at first only look on and mutter his disapproval, while the turbulent demagogue lorded it in the city; subsequently Pompey too armed bands of ruffians and conflicts between the opposing forces became common, so much so that early in 57 B.C. when Cicero's recall was proposed, the bands of Clodius won a pitched battle in the forum. Pompey and Clodius were rapidly drifting apart, and Pompey finally secured the bitter enmity of his late ally by allowing Cicero to be recalled from the banishment to which he had been sentenced by name after his withdrawal from Rome.

Cicero's
return.

The widespread enthusiasm with which Cicero was received on his return was a strong testimony to the attachment of the mass of the people to the Republican constitution. The idea had already become prevalent that the Triumvirate was the first step to military rule and that the Republic was in danger. In fact the coalition was regarded with suspicion as early as the year of Cæsar's Consulship. Even then verses that seemed to be an attack on Pompey were cheered to the echo in the theatre, and Cæsar himself was received in ominous silence by the crowd. The enthusiasm showered on Cicero was due not so much to any superlative qualities that he possessed, or to the remembrance of his past exploits, as to the general recognition of him as a thoroughly honest supporter of the Republic.

Unpopu-
larity of
the Trium-
virs.

There seemed some chance at this time of rallying the people against the Triumvirs. Feeble as the government of the Senate had been, the people saw in it the one alternative to military rule, and among the respectable classes the Senatorial party was regarded with feelings such as it had never before

inspired. Moreover it seemed as if a breach was going to open within the Triumvirate itself. Cæsar had been regarded as the adjutant of Pompey; but the brilliant successes of Cæsar in Gaul and the military fame he was attaining were rapidly reversing the positions of the two in the popular estimation. Pompey was now in almost the same position relatively to Cæsar as the latter had held during Pompey's successes in the East, and he found himself forced to adopt the same device; he set himself to secure an extraordinary command that should raise him to a position of equality with one who was now no longer a useful assistant but a dangerous rival. Again the Senate by their miserable short-sightedness threw away their chances; they did not recognise the danger that threatened them from Cæsar and met Pompey's demand in a grudging spirit. They could not bring themselves to trust Pompey, and did not see that their one chance of successfully resisting Cæsar lay in throwing themselves without reserve into the arms of Pompey. In this one respect Cicero seems to have been blessed with more foresight than his fellows; in the earlier part of his career he had endeavoured to unite Pompey firmly with the Senate, and he still saw the advisability of pursuing the same course.

Pompey found an excuse for the conferment of extraordinary power on himself in the famine which was then severely felt in Rome. Owing to the general mismanagement of the authorities corn was at a high price. Pompey aimed at a position virtually the same as that conferred on him by the Gabinian Law. His designs were no secret, and Cicero in accordance with his general policy introduced a proposal to the Senate for giving Pompey the general administration of the corn supply for five years with fifteen legati, a large sum of money, and Pro-Consular command over the whole Empire. Cicero in this proposal was pursuing his old policy; he wished if possible to detach Pompey from Cæsar and win him to the side of the Senate. If Pompey could have thrown aside his habitual reserve and openly declared his wishes, the Senate might have thrown themselves into his arms, and Cæsar would have found himself confronted by a strong party before he was ready for the struggle. But everything was ruined by

Pompey
and the
Corn
Supply.

Pompey's want of sincerity; while affecting to approve the bill supported by Cicero, he induced the Tribune Messius to come forward with a proposal that embodied his real wishes, conferring on him a command by land and sea superior to all the provincial governors and supreme control of all the forces and treasure of the State. This was evidently intended to give him a position superior to that of Cæsar. If he had openly declared his willingness to champion the Senate against Cæsar, they might have granted his wishes in full; but when he wavered and even declared his preference for Cicero's scheme they may be pardoned for distrusting him and taking him at his word. The smaller grant was made, and Pompey professed himself content; but he had no specially assigned army, and to supply this want he secured the introduction of a proposal in 56 B.C. that he should be appointed with an army to restore the expelled king of Egypt. The Aristocrats however found a religious scruple and the attempt of Pompey was again foiled.

The
Aristo-
cracy
gaining
ground.

Cicero and his friends had every reason to be satisfied with the general trend of affairs. It was evident that a certain amount of mutual distrust existed between Pompey and Cæsar. It seemed too as if the one result of the Triumvirate in Rome itself was the spread of anarchy and disorder. Every citizen of eminence had to protect himself by armed bands to be safe from the rabble of Clodius. All the circumstances seemed to point to an Aristocratic reaction; and so sure was Cicero of general support and the assistance of Pompey that he proposed in the Senate that at an early date in May he would raise the question of the validity of Cæsar's acts during his Consulship and especially of his Agrarian Law. Cicero's position at this time is one of peculiar interest in view of his change of front later in the year. He was now the uncompromising opponent of Cæsar, trying by all means in his power to break up the coalition and unite Pompey and the Senate. Even now he might have succeeded but for the stupid obstinacy and jealousy of the majority of the Optimates¹; they had never been enthusiastic supporters of

¹ Cf. the meanness of the provision made to compensate Cicero for the destruction of his property during his exile.

Cicero, who was at best a 'Novus homo'; they now directed their attention to annoying Pompey by means of Clodius, and they did this with the greater zeal as any favour shown to Clodius would annoy Cicero. In the 'De Haruspicum Responsis,' early in 56 B.C., Cicero gave the Senate a dignified rebuke for their unseemly and foolish conduct. But the most notable event of the early months was Cicero's bitter attack on Vatinius, the creature of Cæsar who gave evidence against Sestius when put on his trial by Clodius on a charge of rioting. The violent invective delivered against Vatinius shows how little Cicero then anticipated that a few months later he would be lending the influence of his oratory to the cause of the Triumvirs.

Cæsar was kept well informed of affairs in Rome and found considerable cause for anxiety. The coalition appeared to be breaking up and the relations between Pompey and Crassus, never very cordial, were becoming strained. Early in April Cæsar had had a meeting with Crassus at Ravenna, at the moment when the alliance between Pompey and Cicero seemed imminent. Suddenly Pompey, saying nothing of his intentions, left Rome, and in the middle of April the three confederates met at Luca. Cæsar again showed himself a master of diplomacy; by conceding Pompey what he had tried in vain to get from the Senate, and reconciling Pompey and Crassus, Cæsar made the ties of the coalition stronger than ever; it was agreed that Pompey and Crassus should be Consuls for 55 B.C., and that after their year of office they should have the provinces of Spain and Syria for five years, Pompey being allowed to govern by means of a lieutenant if he wished; Cæsar in return for this was to have his command prolonged for five years, till the end of February 49 B.C., and the acts of his Consulship were to be finally ratified.

This last stipulation closely affected Cicero, and Pompey undertook the task of reducing him to submission. Cicero found himself again left in the lurch by Pompey; he was quite powerless; the brilliant hopes he had conceived a few months ago were all dissipated. It was a trying position for any but a strong and determined man; in any case further resistance to the Triumvirs was palpably hopeless; the

Renewal
of the
Coalition.

Cicero's
Recantation.

Optimates were reduced to impotence. There was only one strictly honourable course for Cicero, and that was to virtually withdraw from politics till things took a more favourable turn. But this entire abdication Cicero could not face; an active part in contemporary politics was as necessary to him as the breath of life. He hesitated long, and at last made his famous recantation in the speech 'De Provinciis consularibus' when the question was raised in the Senate what provinces should be set aside for the Consuls of 65 B.C. The brilliant eloquence and enthusiasm of the speech, which was little else than a panegyric on Cæsar, contrasts somewhat with the view which Cicero took of his position; he confessed to Atticus that he was deeply conscious of his disgrace;¹ he laments the treachery with which both parties had treated him; but the die was cast; the party which he longed to lead and which had no power would have none of him; for the future he would take care to secure the affections of those who had the power.

Second Consulship of Pompey and Crassus. For 55 B.C. the Consuls were Pompey and Crassus for the second time; no opposition was to be anticipated; Cicero had become their advocate, and the whole Aristocratic party was thoroughly submissive. It was part of the policy of the Triumvirate to ignore the Senate and to reduce their administration of military and provincial affairs to a nullity. Thus in due accord with precedent the special command of Spain and Syria for five years (from January 1st 54 B.C. to January 1st 49 B.C.) was conferred on Pompey and Crassus by the Lex Trebonia, that is by the assembly without any consultation of the Senate; while Cæsar's command was prolonged for five more years till the last day of February 49 B.C. by a Lex Licinia Pompeia proposed by the Consuls themselves. With the practical administration of the State concentrated in the hands of the Triumvirs no measures could be passed without their approval; two laws were carried during the year by them, the Lex Pompeia Judiciaria, which raised the money qualification for the jurors and was intended to lessen the

¹ Att. iv. 5. Subturpicula mihi uidebatur esse παλιρροία. . . . Quoniam qui nil possunt ii me nolunt amare, demus operam ut ab iis qui possunt diligamur.

corruption that notoriously prevailed, and the Lex Licinia de Sodaliciis directed against the clubs which had been put down in 68 B.C. and revived by Clodius ten years later to facilitate the organisation of street riots.

From this year the Triumvirate began to fall to pieces. In 54 B.C. the strongest bond between Cæsar and Pompey was broken by the death of Julia to whom Pompey had been deeply attached, and the coalition was still further weakened by the departure of Crassus for his province, Pompey remaining in Rome and administering Spain by means of his Legates. In the following year (53 B.C.) the death of Crassus left the two remaining members of the coalition face to face. Crassus was not a man of superlative powers, or striking personality; it was chiefly his immense wealth and the influence that this enabled him to wield that made him a desirable ally both for Cæsar and Pompey. He was ambitious, and in return for the use of his purse they gave him the means of gratifying his ambition. Moreover the union of the great capitalist with the military leaders tended to relieve the public mind from any apprehension that the power gained by the opponents of the Senate would be used to make an attack on the rights of property.

For the most part these years were a time of inactivity for Cicero. In 54 B.C. he showed his attachment to the Triumvirs by defending both Vatinius and Gabinius, though the latter performance he regarded with shame and afterwards referred to with disgust. An admirer of the genuine Republican constitution and the free institutions with which Rome had grown great, he found but cold comfort in the existing state of affairs. Every part of the constitution seemed in a state of decay; the Comitia were worthless under the influence of bribery and the terrorism of armed mobs, and election riots had become the leading feature of the political life of the city; the Senate was helpless under the shadow of military despotism, and only a mere semblance of free discussion and political activity was preserved. Cicero might well complain that the very life-blood of the old Republic had been drained, that the Republic itself had virtually ceased to exist, and that for himself he saw nothing that could give him satisfaction

Gradual
dissolution
of the Co-

Cicero and
the Triumvirs
the Coalition.

A HISTORY OF ROME

but a devotion to literary pursuits. But an even worse prospect was looming in the distance; if Cæsar and Pompey should drift still further apart no man could say what the end might be. That Cæsar saw this contingency is clear; he appreciated the influence of Cicero's support; he knew that Cicero's adhesion to the Triumvirate was largely due to his old admiration for Pompey and his longing to enlist him on the side of the Government. He was now labouring ceaselessly to attach Cicero to himself; he lent him money to relieve him from his embarrassments; he showered favours on his brother Quintus; he lost no opportunity of assuring him of his respect and support. Cicero accepted all this as no more than his due; but the two men each possessed of a clear appreciation of the excellencies of the other were playing at cross purposes. While Cæsar was hoping to detach Cicero from an academic attachment to a Republican ideal that was already a thing of the past, Cicero was hoping that he might be the chosen instrument for winning Cæsar from his dangerous designs to a true appreciation of the beauties of the Republican constitution that he seemed to be threatening.

Pompey
and the
Opti-
mates.

From the first year of the Triumvirate the position of the confederates had been changing. Pompey no longer filled the eyes of Rome as he had done before; dull as he was he could not fail to see that Cæsar was rapidly becoming the master spirit, and form some better estimate of the extraordinary powers of the man whom he had blindly helped to a position that made him a formidable rival. Cæsar's successes began to inspire universal apprehension; the triumphs over the warlike barbarians of Gaul far outweighed the glory of Pompey's old victories over the effeminate nations of the East, and Rome began to see that at last a general had arisen who could eclipse the past fame of Hannibal himself. With a magnificent army of trained soldiers at his back, with his wonderful military skill united to diplomatic powers that had been little recognised in the past, there was no position to which Cæsar might not aspire. The one hope of checking him lay in the union of the constitutional party with Pompey,

the very combination which had been the dream of Cicero for many years. Pompey too began to see his only hope of salvation in the same course, and the new union was typified in 53 B.C. by Pompey's marriage with Cornelia, the daughter of Scipio Metellus one of the most unpromising members of the Optimate party.

Rome had been for several years a scene of confusion; Pompey was helpless to keep order; the Law Courts were utterly corrupt, and the normal interest on money rose from four to eight per cent. owing to the demand for money for purposes of bribery. The riots had assumed a more serious aspect than ever; in 54 B.C. the Consular elections had to be postponed and the Consuls for 53 B.C. were not elected till August of that year. The succeeding elections at which Milo was a candidate produced the same scandal, and the conflicts resulted in the death of Clodius whose mob proceeded to burn the Senate House in revenge. Circumstances at this time played into Pompey's hands. He had already tried to get the Dictatorship and had been refused by the Senate; but the anarchy prevailing in Rome and the utter impossibility of orderly government resulted in the election of Pompey as sole Consul for the year 52 B.C. on the motion of the two aristocrats Cato and Bibulus. The breach between Pompey and Cæsar and the union of Pompey with the Optimates was clearly foreshadowed. Cato with the minority of the Senate had never ceased to offer continual but unavailing opposition to the Triumvirs, while Cicero and the majority had acquiesced in their rule. It now appeared likely that both wings of the Senatorial party would make common cause with Pompey against Cæsar.

But the alliance between Pompey and Cæsar still formally subsisted, and Pompey was not yet willing to break definitely with his powerful ally. Pompey's efforts to gain the Dictatorship were made with the knowledge and assent of Cæsar in view of the necessity of restoring some sort of order in Rome. Several important enactments were passed by him; firstly, to make an example of those who had taken a leading part in organising the disturbances of recent years, care was taken to

secure the punishment of Milo for the murder of Clodius, a special form of trial being fixed for the occasion by a *Lex de Vi*; secondly, to reduce the corruption in the elections and Law Courts, a more stringent *Lex de Ambitu* was passed with retrospective force as far back as 70 B.C.—a measure no doubt directed against the Republican party who had by the conviction of Gabinius scored a notable triumph at the expense of the lieutenant of the Triumvirs. Far more important however than these laws was the *Lex Pompeia de Jure Magistratum* which enacted firstly, that candidates for office must appear in Rome, and secondly, that Consuls and Praetors should receive their provinces not immediately on the expiry of their year of office, but after an interval of five years. This law was directed against Cæsar, and to understand its exact importance and the subsequent history of the outbreak of Civil war it is necessary to clearly understand the position of Cæsar.

Position of Cæsar. Cæsar had been Consul in 59 B.C.; by law an interval of ten years must elapse before he could hold the office again; he therefore could not be Consul till January 1st 48 B.C., and the elections for 48 B.C. were held in July 49 B.C. Cæsar desired the Consulship of 48 B.C. and at the conference of Luca his colleagues had guaranteed his election. Now in strict law it was necessary for a candidate to hand in his name in person, but breaches of this formal rule had been common for many years, and in 52 B.C. Pompey had voluntarily passed a bill (which being an exemption from law came before the people) to the effect that Cæsar should be allowed to stand for the Consulship in his absence. This was intended as a sop to Cæsar; but it had no sooner been tendered than Pompey showed his usual feeble vacillation by passing the *Lex de Jure Magistratum* ordering in general terms a personal canvass. This law at first met with no opposition from Cæsar's friends, because they never thought that in face of the earlier law in this same year it would be applied to Cæsar's case. But in view of the fact that this general law did actually annul the permission lately granted to Cæsar objections were raised, and Pompey inserted the proviso that the law should not be valid against those

who had been formally exempted by the people. This proviso itself was legally invalid because it was merely inserted into the law by Pompey and not passed by the votes of the people, which it needed as being a special exemption from the terms of a general law.

The command of Cæsar in Gaul was an extraordinary one; it terminated not on the 1st of January but on the 1st of March. The Senate had to determine beforehand what provinces should be selected for the Consuls before the election was held; thus before the Consuls for 50 B.C. were elected the Senate had to decide what provinces should be held by them as Pro-Consuls in 49 B.C., and the Pro-Consuls would proceed at once to their commands. But inasmuch as Cæsar's command did not terminate till March 1st the province of Gaul would not be available for the ex-magistrates on January 1st, and therefore there would be no governor forthcoming on March 1st to take over Cæsar's command, all the available pro-magistrates having in accordance with the invariable custom proceeded to their provinces on January 1st. Further, the governor must remain at his post till the duly appointed successor arrived to relieve him, and this in Cæsar's case would not be till January 1st 48 B.C., when Cæsar would straightway return to Rome and enter on his Consulship. This was the plan Cæsar had formed with the support of Pompey and Crassus in 56 B.C., and which Pompey and the Optimates set themselves to break down in 52 B.C. Cæsar recognised that it would be political suicide for him to return to Rome as a private individual; he would be immediately put on his trial for maladministration of his province or on some other similar charge; Rome would be overawed by Pompey and the Optimates, and he could expect neither justice nor mercy. Thus while Cæsar desired to retain his command till the end of 49 B.C. and then enter at once on the Consulship, thence proceeding to another military command and giving the Optimates no chance of attacking him, the latter directed all their efforts to securing Cæsar's presence in Rome as a private citizen. This could be effected in one of two ways; either by insisting on his personal canvass for the Consulship

in July 49 B.C., which would give the opposition five months in which to carry out their schemes against him; or by getting a successor named by some means immediately on the expiry of his term, March 1st, and thus placing Cæsar at the mercy of his opponents from March 49 B.C. to January 48 B.C. The former plan has already been indicated; the latter could only be effected by introducing a new method of filling the provincial posts. Such was the consideration that produced the second clause of the *Lex de Jure Magistratuum*. The regulation enjoining an interval of five years between a magistracy and pro-magistracy entirely suspended the existing practice under which the magistrates proceeded automatically to the provinces on the first day of January. The magistrates of 52 B.C. would thus not be eligible till 47 B.C. and in the meantime the provinces for the intervening five years must be filled by ex-magistrates already qualified who would be selected by the Senate and receive special *Imperium* from the people. Thus the difficulty of finding a successor to Cæsar on March 1st 49 B.C. was obviated; the whole administration of the provinces for the next five years was thrown entirely into the hands of the Senate, or the general on whom the Senate might be dependent, that is Pompey himself; so that on the very day on which Cæsar's command legally expired the Senate could nominate a successor out of the Consulars and send him out at once, and the law necessitated Cæsar's departure from his province within thirty days of the new general's arrival. By this manœuvre Cæsar's plan for retaining the *Imperium* up to the very day of entering on his Consulship was frustrated; and his opponents hoped by this means to ensure his return to Rome not later than the first day of April in a private capacity.

If Pompey imagined that he was still preserving the appearance of an '*entente cordiale*' with Cæsar he was deceived. Helped to his position in Rome by Cæsar's friends, in view of his position as Cæsar's ally, he began by getting a resolution passed which secured Cæsar the privilege of standing for the Consulship in his absence,—an arrangement which was certainly part of their original

THE TRIUMVIRATE

bargain; he then proceeded to cut the ground from under Cæsar's feet, and tried to save his position by a manœuvre which was strictly illegal, the addition of a clause to a law on his own responsibility. Cæsar in fact had every reason to complain of his treatment, and to regard the provincial law as aimed exclusively at himself. Pompey seems to have behaved with his characteristic hesitation, half-heartedness and insincerity; but the choice had to be made, and by associating with himself in the Consulship late in 52 B.C. his father-in-law Metellus and then securing the extension of his own governorship of Spain for another five years, from January 1st 49 B.C. to January 1st 45 B.C., he was virtually throwing down the gauntlet to Cæsar.

By the end of 52 B.C. it needed no extraordinary penetra- Prelimi-
tion to see that a struggle was impending, and the Optimates in naries to
Rome perhaps viewed the prospect with a lighter heart than th
might have been expected by reason of the almost insuperable difficulties that had been placed in Cæsar's path by the dangerous revolt in Gaul. This danger was triumphantly surmounted by Cæsar by the end of 52 B.C., and he on his side began to prepare for the struggle that seemed inevitable. He had at his back an army such as had never been led by a Roman general; he now doubled their pay, and began to attach many Romans to him by a lavish distribution of gold won in his Gallic conquests. But while convinced that the fight could not be long delayed, he determined to hold back as long as possible and leave the first moves to his opponents. It was important to Cæsar that the so-called champions of the Republic should be the first to draw the sword, and that he himself should be able to fight not as the assailant of the constitution, but as the defender of his own just rights.

The policy of the Optimates had clearly marked out the question of the succession to the Gallic provinces as the ground for the struggle; and in 51 B.C. the aristocratic Consul Marcus Claudius Marcellus began the campaign by attacking Cæsar's acts in Transpadane Gaul where he had conferred the citizenship on Novum Comum. The question of the succession to the Gallic command was repeatedly raised during the year, till in September Marcellus made certain

definite proposals; firstly, that the question of the Gallic command should be discussed on March 1st 50 B.C., and that business should be undertaken till the question had been settled; secondly, that Tribunician veto on this matter or other form of dilatory opposition, should be accounted *Treacherous* (contra rempublicam), an utterly unconstitutional proceeding which showed to what lengths the professedly constitutional party was prepared to go in their hostility to Cæsar; thirdly, that Cæsar's veterans should be urged to apply for their discharge. The first proposal was carried without opposition, the two latter clauses were promptly vetoed.

Thus the vital question was left standing till 50 B.C.; among the Tribunes for that year was Curio, once a rising hope of the Optimate party, but now an ardent supporter of Cæsar, who was destined to play a leading part in the preliminaries to the war, and who opened the campaign with a number of minor proposals intended merely to irritate Pompey and his associates, such as the restoration of one Memmius who had been an accuser of Pompey's father-in-law Metellus. The long expected first of March arrived and the question was once more postponed on the motion of the Consul Paullus.¹ On this occasion Pompey gave his opinion that Cæsar should be allowed to stand for the Consulship in his absence, but should be required to lay down his Gallic command on the Ides of November. This was a feasible attempt on the part of Pompey to save his conscience, but could not be acceptable to either party, and a proposal in these lines to the effect that Cæsar should resign on July 1st and come to Rome for the elections was vetoed by Cato. Marcellus, the leading champion of the constitution, finding himself confronted by the perfectly legitimate opposition of Curio, tried to induce the Senate to apply pressure to Cæsar to make him retract his veto.

At this juncture came a letter from Pompey offering to resign his command if the Senate thought such a course would tend to a peaceful solution of the difficulty; but

¹ The two motions discussed during this crisis were '*ne absentis habeatur*' (that Cæsar be not allowed to stand for the Consulship in his absence) and '*ut exercitum dimittat*' (that Cæsar disband his army).

steps were taken to put this offer into effect. The Senate did, however, decide that both generals should give up one legion for the operations against the Parthians that were thought likely to be necessary; and with this demand Cæsar complied at once, sending back at the same time a legion which he had borrowed from Pompey.

In June the question of Gaul was again raised by the Consul Marcellus. A proposal was carried that Cæsar should resign his command; this was vetoed by Curio. A counter proposal that Pompey should resign was negatived. Then came Curio's master-stroke. He proposed that Pompey and Cæsar should both resign; this appeared to open a way out of the impasse and was carried by 370 votes to 22, but was vetoed by the Tribunes in Pompey's interest. The failure of this attempted compromise was of great value to Cæsar as showing the hollowness of Pompey's promises and his own willingness to meet his rival on the basis of a compromise. The strength of the Pompeian party in Rome was shown by the election of Gaius Claudius Marcellus and L. Cornelius Lentulus Crus, both anti-Cæsarians, as Consuls for 49 B.C.; and in the autumn their position was strengthened by the alarming rumours that spread through Rome in consequence of a review of the Gallic troops and the preparations made by Cæsar for concentrating his forces in Cisalpine Gaul. Early in October Marcellus called the Senate together and moved that Cæsar should be declared a public enemy, only to be met by the usual veto of Curio. An attack on the Tribune followed; but the Senate stood by the principle of the veto and again a dead-lock resulted. The extremists however were no longer to be restrained; quite unconstitutionally Marcellus went to Pompey and on his own authority and that of the Consuls designate offered him the command against Cæsar.

By their violence and headstrong disregard of constitutional procedure the Pompeians enabled Cæsar to act with a show of moderation. He saw now that an appeal to arms was inevitable; he was quite prepared for the struggle himself; it must come sooner or later, and no time could be more favourable to him than the present; he might however win

some of the waverers to his side by making the onus of aggression appear to rest on his opponents; at any rate it could do him no harm to make proposals which his opponents were sure to reject. Such was his suggestion that he should resign Transalpine Gaul and eight legions on March 1st on consideration that he might retain Cisalpine Gaul and Illyricum with two legions.

This was the state of affairs when Cicero returned to Rome from Cilicia, whither he had been sent as Proconsul for 51 B.C. under the new provincial law of Pompey. For some time Cicero seems to have looked forward with dread to Cæsar's next Consulship and to have feared all kinds of revolutionary anti-Senatorial legislation, but not an armed attack on the constitution. Everything now pointed to a struggle by no means remote. In this event it seemed to Cicero better to be conquered with Pompey than to conquer with Cæsar.¹ Still he did not despair of a compromise and used all his efforts in the cause of peace, but in vain. The crisis was not one for words, and Cicero's admonitions were wasted.

The out-
break of
the war.

On the first day of January 49 B.C. Curio, who had left Rome and gone to Cæsar, reappeared with a letter embodying his leader's proposals; this ultimatum stated definitely that Cæsar would lay down arms and disband his troops if Pompey would do likewise, but on no other consideration. Many of the Senators would beyond a doubt have been willing to stave off the evil day for a little while and accept this perfectly fair compromise; but the firebrands who directed the Senate at this time would hear nothing of compromise, and Pompey had gone too far to hope for any lasting accommodation with Cæsar. Overawed by Pompey and the Consuls the Senate called on Cæsar to lay down his arms or in default to be declared a public enemy. The Tribunes vetoed this, and after several sittings had been held without result the *Senatus Consultum Ultimatum* was passed; the Tribunes were declared 'hostes' and fled to Cæsar at Ravenna, and the Civil War had begun.

The immediate responsibility for the Civil War must be held

¹ Cic. ad Att., vii. 1. 4.

to rest with Pompey and the Senate ; they strained every nerve to get Cæsar into their clutches ; they set in operation against him every possible contrivance ; they altered the whole machinery of provincial administration to reduce him to impotence for a few months that they might be able to punish him for bringing a wide empire under the rule of Rome, and undo all his acts for the settlement of his new acquisitions ; they even tried to invalidate and destroy the Tribunician veto, one of the palladia of the Republic they professed themselves so eager to defend. From the beginning of the struggle over the appointment of his successor Cæsar had acted with moderation and strictly in accordance with precedent ; he only asked a favour which had been extended to many of his predecessors and which Pompey had agreed should be granted him ; his opponents took their stand at first on a strict adherence to formal constitutional law. Cæsar again and again made offers of compromise, and even though he was aware of the probability of their rejection we have no ground for believing that he would have refused to abide by his terms if his opponents had accepted them. Cæsar drew the sword only because he was forced to do so in self-defence. There is little doubt that Cæsar had long intended to make himself master of Rome, to supersede the effete Republic by a form of government that could adapt itself to the needs of a world-wide empire. He had two alternatives in 49 B.C. ; he must either ensure his position by force of arms, or consent to his own political annihilation and the stultification of his life's work. It was well for Rome that he did not hesitate. For many years Rome had been drifting towards Militarism and Imperialism. Pompey had several times been in a position to make himself master of Rome, but his attachment to the form of a Republic and his irreconcilable desires to be at once the master of the Senate and the servant of the Republic had resulted in a constant vacillation, and a prolonged union with the Democrats and their leader. There could be no equilibrium between Cæsar and Pompey ; there was no room for two generals ; both were faced by the same problem ; it was a choice between abdication in favour of a rival or an appeal to arms. The latter course could be re-

garded by Cæsar with equanimity; Pompey and the Senatorial party grasped it as their one chance of avoiding the ascendancy of Cæsar without any clear conception of the master-minutes that opposed them or of their own immeasurable inferiority. Cæsar accepted the challenge that was forced on him; he would have been willing to avoid war if he could do so without ruining all his plans; but he was determined to be master of Rome, and if he was forced to fight he could enter on the struggle with full confidence that the result would vastly strengthen his position for the work that lay before him, the thorough reorganisation of Rome.

CHAPTER XV

CÆSAR

THE government of Cæsar began with his entry into Rome in 49 B.C. on his return from Brundisium. The departure of Pompey left him the undisputed master of Italy; but the struggle had only begun. In Italy and Gaul Cæsar was supreme; in Spain and the East Pompey's forces held the field, and much remained to be done before Cæsar could set his hand to the work of reorganising the Roman Empire and evolving a new form of government suited to the needs of the time. For the present therefore Cæsar intended to make use of the existing machinery, and his first act was to summon a meeting of the Senate to take such extraordinary measures as were necessary in the present dislocation of the Government. The Senate felt itself impotent; it could do nothing in face of Cæsar's military power, but it could still sulk and offer an unavailing and passive resistance to all his plans; this was the line it took. It would not pass the measures he required; and the Tribune Metellus was induced to interpose his sacrosanct person to the entrance of Cæsar into the Treasury. These devices failed; nothing was gained by such a course; Cæsar, now that he had begun a revolution, was not likely to be deterred by merely formal regard for strict constitutional practice; it was absolutely necessary, with his own prolonged absence from Italy in view, that some steps should be taken to assure the good government of Rome and Italy while he was away. Finding the Senate intractable he proceeded to name Lepidus Prætor Urbanus to govern Rome during his absence, and M. Antonius his military Legatus for Italy. He also appointed governors for the provinces, who, instead of being strictly pro-magistrates as before, were now merely Legati of Cæsar.

All these acts of course were utterly irregular; Cæsar's presence in Italy itself was a violation of the constitution, for he was only Governor of Gaul. Such a consideration no doubt afforded some satisfaction to the Republican party; revolutions are naturally unconstitutional; but no one ever found greater justification in the necessities of the time than that of Cæsar. But for the irrational obstinacy of the Senate the semblance of constitutional procedure might have been preserved, for Cæsar's autocratic arrangements were intended only as temporary measures; thus at the end of the year he had himself appointed Dictator for eleven days to hold the Comitia and was elected Consul for 48 B.C.

Cæsar's
Moderation.

His brief appearance in Rome in 49 B.C. served to immensely strengthen his cause. It was against all precedent that a Roman general elevated to such a position by force of arms should use his power with moderation and clemency. Marius, Cinna and Sulla had no sooner assured their supremacy than they exchanged the victor's sword for the executioner's axe. No one would have been surprised if Cæsar had done the same, especially in view of the widespread and not altogether unjustifiable suspicion that he had been implicated in the murderous plots of Catiline. But the universal clemency of Cæsar soon dispelled these fears; even those who fell into his power with arms in their hands in the early part of the war were left free to continue their operations against him. There were no confiscations, no prosecutions; the restoration of political exiles, which was one of his earliest acts, seemed to signalise the end of the long period of political persecution; Cinnans and Sullans alike were brought back, and the exclusion of those who had killed the proscribed for money, and of Milo the organiser of riots, was in itself a pledge for the orderly government of Rome in the future. The great mass of quiet citizens who were not influenced by academic republican sympathies to reject all favours that came from the master's hand could hardly fail to contrast this moderation with the wild threats hurled at Cæsar by the exasperated Pompeians, and to see clearly where lay the real danger of a recurrence of past troubles.

Of the old Moderate party no one was more prominent

than Cicero, whom Cæsar tried to bring back to his seat in the Senate at Rome; no efforts were spared by the general to win the orator to his cause; he represented to him that his adhesion would greatly strengthen the cause of peace, for Cicero was a notoriously consistent Republican, however much he may have vacillated in his political career. Cicero spent some months in Italy writing almost daily to Atticus and discussing the line of conduct he ought to pursue. His chief feeling was one of deep disappointment with Pompey for his evacuation of Italy, and indignation at the sanguinary threats of the Pompeian leaders who no longer tried to disguise their intention of indulging in terrible reprisals if the fortune of war should declare for them. For a long time Cicero seemed to waver; he recognised that Pompey was aiming at a 'Tyranny' no less than Cæsar;¹ and yet he could not rid himself of the idea that Pompey's cause was at bottom the best, and that it was the duty of all true Republicans to rally to him. Above all, Cicero was influenced by the fear of the verdict of posterity and the obligations under which he conceived that Pompey had laid him in securing his recall from exile. The crisis came when Cæsar had the celebrated interview with him at Arpinum in March 49 B.C. Cæsar with all his persuasiveness could not turn Cicero from his determination to stay away from Rome. As a last resource he asked him to go to Rome and advocate the cause of peace. Cicero then threw aside the hesitation that had marked his course for three months, and boldly avowed that if he did he would feel himself constrained to oppose Cæsar's projected expedition to Spain, and to avow boldly his sympathies with Pompey. Cicero had made his final choice. It is one of his greatest claims to respect that, while timid and hesitating in the contemplation of a difficult course, he could confront the danger boldly when it came, and declare his hostility without faltering when face to face with the master of the legions.

The opposition of the extreme Aristocrats and the Republicans to Cæsar was natural; the former were lost in admiration of their rotten oligarchy, the latter of an

Cæsar and
Cicero.

Cæsar and
the ex-
treme De-
mocrats.

¹ Cic. ad Att., vii. 3. 4.

equally rotten Republic; both alike saw their ideal threatened. But Cæsar had other opponents to contend with. The 'extreme left' of the Democratic party, the Anarchists who had been led by Catiline, had consistently supported Cæsar as the champion of Democracy; but they looked for a Democracy built after their own plan; freedom to them meant licence — government by efficient Comitia, or by a general who would pander to their tastes for revenge, who would squander on them the treasures of the State, and raise their decayed members to affluence by allowing a general repudiation of debt. They had mistaken Cæsar for a successful Catiline, and were proportionately disappointed. The absence of the ruler in 48-47 B.C. gave them an opportunity to break out, and just before the battle of Pharsalus the Praetor M. Caelius Rufus endeavoured to secure the cancelling of debts. When deposed by the Senate he called in the services of Milo, a bitter champion of a worthless cause. Together they armed the slaves of Capua and Thurii to carry their proposals by violence, but were speedily crushed. Next year however a Tribune Publius Dolabella renewed the scheme, and Rome was again the scene of constant riots, till Antony, the military legate of Italy, interfered, and the disturbances were stamped out.

Death of
Pompey.

The death of Pompey in 48 B.C. removed Cæsar's only rival from the stage; at one time the noblest figure in Rome, he had been beaten in the race by one who had scarcely started when he himself had nearly reached the goal. Pompey's career has been much misunderstood; if he had aimed at personal rule based on military power, nothing could have stopped him in 71 B.C. or in 62 B.C. He had Rome at his feet, and his retirement into private life is not to be attributed to vacillation or to 'an ambition that was frightened at its own aims'; he desired to be the general of the Republic, always prominent, always clad in the triumphal robe. He may have been conscious of his own political weakness, and the absence in himself of all the requisites of a statesman; he might several times have seized the reins of the State, he could never have held them

long ; the Senate recognised his weakness, and when they saw there was no fear of a military *coup d'état* they ignored him. There is scarcely one point in his character to admire, there are many to condemn. He had no sense of personal honour ; he could throw Cicero aside after the conference of Luca, when the orator's plans were no longer useful to him, with a brutal absence of apology, and a brusque command to behave himself for the future. There was no openness, generosity or sincerity about him. In the day of his grandeur it was the burlesque side of his behaviour that appealed to his contemporaries, and secured him the nickname of the Great Mogul and the Pasha. The only pleasing incident of his life was his affection for Julia, and when she died he became again the dull uninteresting personality, blundering hopelessly in the midst of political complications that he could not understand, 'saying one thing and meaning another, and destitute of the wit to hide what his real purpose was.' Only at the last, when they wanted a soldier to lead them, the Aristocrats turned to him. He served them well against the genius of Cæsar ; but his fatal weakness showed itself again ; he had consented to lead the Optimates, but he could not control them ; he lay inactive on the coast of Greece, when a descent on Italy might have restored his cause, and suffered himself to be forced by his insubordinate lieutenants into a battle the fatal issue of which he seems to have foreseen. As a general he was not destitute of ability ; he out-manceuvred Cæsar himself at Dyrrhachium ; but he had not the mental quickness that can pick out a weak spot and strike hard, that is the chief requisite of a great general. He was popular with his men up to a certain point, though he never inspired them with a devotion such as they showed for Scipio and Cæsar ; but he was more than a 'good sergeant' ; if he had lived in the early days of Rome when the general had not the same chances of displaying political incapacity Pompey might have been a Camillus or a Fabius, he could never have been a Scipio. He has suffered perhaps from a natural comparison with his great opponent ; but even the praise that has been accorded

him is due perhaps less to the achievements of his than to the pathos of his death.

Cæsar's
work.

The triumph of Cæsar at Pharsalus was not final. In the East, in Africa and in Spain, he had to struggle with armies of the Pompeians, and less than a year after his last great fight at Munda he was murdered. Within a year and the small intervals of rest allowed him between his campaigns¹ Cæsar had to grapple with the great work of reorganising every branch of Roman government, founding on the ruins of the old Republic his new Monarchy. The details of Cæsar's work are obscure, the order in which his various reforms were introduced is quite uncertain; but we cannot fail to marvel at the intense energy of the man who could carry out such a work in a few troubled months, and the wonderful statesmanship that could reconstruct the whole fabric of an empire in the few small intervals that could be snatched from the burdensome occupations of a difficult war.

His offices. Already in 49 B.C. Cæsar had been appointed Dictator for eleven days to hold the Consular elections, and in 48 B.C. he conducted the campaign against Pompey as Consul; at the battle of Pharsalus he was again appointed Dictator indefinitely, while still holding the Consulship, and at the same time he received the *Tribunicia Potestas*,—that is to say he was not actually Tribune, but he received the powers and privileges that belonged to the Tribune, such as the power of Veto and Tribunician inviolability. Cæsar was still absent from Rome, and this was only a provisional form of government; but it amounted to absolute rule, and was recognised as such. There was no time limit attached to the Dictatorship, and moreover certain additional powers were specifically conferred on him by special laws and decrees of the Senate, such as the power of making peace and war, of appointing governors to the provinces together with supreme judicial powers, and a certain control over the elections; at the same time he was invested with

¹ Cæsar was at Rome in 49 B.C. for a few days in April and December 47 B.C., September to December; 46 B.C., for four months in the autumn; lastly, from October 45 B.C. till March 44 B.C.

the Consulship for five years. It is clear that this accumulation of powers made him absolute master of Rome; with complete control of the army and finances, supreme management of foreign and provincial arrangements, of the legislative and electoral Comitia, and with a subservient Senate, nothing was wanting to the new Monarchy but a name. On his return from Africa in 46 B.C. came the opportunity for superseding all temporary makeshifts by a permanent arrangement; he received a new Dictatorship for ten years, and the Censorial power (or *Praefectura Morum* as it was called) for three years, thus gaining 'de jure' a complete control over the Senate which he had hitherto exercised 'de facto.'

It was generally expected that Cæsar would now openly declare his plans, that he would clearly define the new form of government. Some of the Romans, and among them Cicero, were so blind to the signs of the times that they looked forward to a restoration of the Republic as soon as order had been restored. Cæsar never clearly showed the exact form which he meant his government to take. He seems to have thought this a matter of secondary importance that could be decided when all his administrative work was done and the reorganisation of the Empire complete; in the meantime his absolutism was assured, and he allowed it to rest on the same basis as before, the Dictatorship being conferred on him for life, together with a perpetual *Praefectura Morum* and a ten years' Consulship in 45 B.C. Cæsar died before his work was done, before he had time to formulate the exact plan of the new constitution, and we are left to conjecture the real nature of his aims.

It is quite certain that Cæsar had no intention of following Cæsar's in the footsteps of Sulla, of holding the supreme power for aims. a few years, and then placing the government in the hands of any one party in Rome. Cæsar was Dictator to govern the State not merely to reorganise it. The political events of the last fifty years had clearly demonstrated the impossibility of the old form of government. The army now had the chief voice in ordering the destinies of Rome; a Roman Senate that entrusted the actual command to

its generals had no effective control; the ruler of Rome must henceforth be the master of the legions. But it was far from Cæsar's intention to erect a mere military monarchy and govern Rome by the power of the sword; no sooner did the needs of the time allow than he disbanded his legions and kept only such an army on foot as was needed to ensure the safety of the provinces. Cæsar's government was to be absolutism, open and avowed, surrounded by constitutional forms. It is less important but not less interesting to enquire what the exact shape was to be. The Consulship was unfitted for his purpose, for of late years the old supreme magistracy had sunk to a position of little more than municipal importance; moreover it was a collegial magistracy, and the absolute master of Rome must stand alone. In fact the Republican constitution had no magistracy that could be converted into a monarchy; for the investiture of a single citizen with supreme power was always looked upon as extraordinary, and thus the Dictatorship, which had in early times been made use of to bestow the old king's Imperium on a citizen in time of emergency, was always associated in the minds of the Romans with temporary power. If Cæsar had lived to give the final shape to his constitution he would probably have broken away altogether from the old Republican traditions; but while engaged on his work of reorganisation he took as the temporary basis of his monarchy the Dictatorship which was conferred on him for life in 45 B.C. This assumption of the life-Dictatorship was important; life-tenure of the Dictatorship was a striking innovation that awoke bitter resentment in the minds of the numerous body of opponents to the new order who could not see the good that Rome derived from Cæsar's work and brooded over every trifling violation of Republican prejudices. It was unfortunate in another respect; the Dictatorship was intensely unpopular; it had in early days been employed by the Aristocrats against the party of progress; it had in later days been resuscitated to place irresponsible power in the hands of Sulla, and the terrible use which had been made of it then was still fresh in the minds of many of Cæsar's contemporaries. Cæsar overstepped even

the limits that Sulla had observed, and men might well wonder what strange power this life-Dictatorship was intended to confer.

One new title Cæsar assumed, that of Imperator. This name had hitherto been conferred by acclamation on a victorious general by his troops; he laid it aside as a matter of course when he laid down his military power. Cæsar took it as a permanent title; it conveyed no express definite powers, it merely signified quite generally and without any limits 'the holder of the Imperium,' civil as well as military, over the whole extent of the Roman Empire.

In spite of the short time at his disposal there were few ^{Social re-} necessary reforms to which Cæsar did not set his hand. ^{forms.} Nothing was more pressing than the demand for *social* reforms; in Italy the land had come into the hands of a few wealthy landowners, and the provinces were in a scarcely less evil plight; the proscriptions of Sulla had helped this process of accumulation, and the corn laws of Gracchus and Clodius had encouraged pauperism. The general result was that the needy farmers and peasants had for many years been flocking in increasing numbers to the city, and Rome was crowded with an idle proletariat living on the corn supplied free of charge by the State. This evil was the gradual growth of centuries; it was largely traceable in the first instance to the employment of slave labour, and this was such an accepted feature of Roman life that any attempt at social reform based on the abolition of slave labour would have been impossible of accomplishment even if it had ever entered the head of a Roman. Partial and palliative measures alone were possible; in this way Cæsar was able to accomplish something, to help agriculture, to check the spread of pauperism, to lessen the burden of debt and to restore credit which had been hopelessly shattered by the Civil War.

In the first place the Corn doles were attacked and the ^{Corn doles} number of recipients reduced from 320,000 to 150,000 ^{and} which was fixed henceforth at the maximum; among these ^{colonies.} were included only the names of such as were destitute of means, that is to say 'it was converted from a political privilege into a provision for the poor.' To lessen further

the proletariat of Rome Cæsar formed extensive plan for extra-Italian colonisation, thus identifying himself with one of the most praiseworthy features of the Democratic policy since the time of Gracchus. This scheme was hindered by his death ; but no less than 80,000 citizens were enrolled for the burgess colony at Corinth. Finally, the clubs which had of late years been such a perpetual source of discord among the city mob disappeared under the new government. They had existed primarily for election purposes ; they naturally ceased to exist when the elections were little more than an empty form of returning Cæsar's nominees.

Agriculture.

For agriculture little could be done ; Italian corn had been gradually driven from the market, and Italian agriculture could not be reinstated. Some good was done for the labouring class by the law insisting on the proportion of one-third of free labour on the big estates and cattle runs. Any domain lands which belonged in right to the State and had hitherto escaped distribution, such as the small estates held by the religious guilds, were distributed in allotments ; but the existing rights of property derived from earlier Agrarian law, or even from the proscriptions of Sulla, were rigidly respected. Moreover Cæsar was scrupulously careful in these allotments. Many of them of course went to his own veterans ; but experience had shown in the case of Sulla that the settlement of these discharged soldiers in batches was likely to be fatal to the peace of the neighbourhood, and therefore Cæsar provided them with lands as far apart as possible.

These measures were supplemented by others of a directly social nature. The vast growth of luxury and extravagance was dealt with in a series of laws by which efforts were made to curb the reckless expenditure which had become a feature of the age, the wearing of purple robes and gems, the use of certain dishes for the table, and the erection of costly sepulchral monuments all being placed under certain restrictions. The immorality which had spread side by side with this increased luxury was steadily repressed, adultery was heavily punished, and to meet the evils of celibacy rewards were offered to the fathers of numerous children.

Under Cæsar's government all classes had to expect only such legislation as was good for the community at large. The former rulers of the Republic had been partisans, and though in some cases they had been earnestly desirous of benefiting their country, their measures had always been directed by political considerations. Cæsar alone stood above all such necessities; it was not necessary for him to bribe the capitalists against the Senate as Gracchus had done; and this party which had of late years held the political balance and had been alternately bribed by the Democrats and courted by the Aristocrats found that their interests were in Cæsar's eyes subordinate to the interests of the State. The system of levying the taxes of Asia which had been introduced by Gaius Gracchus, abolished by Sulla and reintroduced by Pompey, was finally abolished. Further, the money-lenders were hampered by a law providing that they should only lend an amount of money proportioned to their landed property, and they were thus compelled to invest part of their capital in land. To restrict usury interest was fixed at a maximum of twelve per cent. For the debtors some strong measures were passed as early as 49 B.C. Firstly, arrears of interest were cancelled and the amount already paid was deducted from the principal; this measure was an attack on the rights of property which cannot be justified even by the plea of the exigencies of the time; it must be noted that it was passed in 49 B.C. and was perhaps intended to be a partial concession to the cry of repudiation raised by the Democrats whom Cæsar was not yet strong enough to alienate from his cause. Secondly, in cases where the debtor ceded his property in default of payment Cæsar enacted that it should be estimated at the value it had had before the outbreak of the Civil War and the consequent heavy depreciation; this measure was thoroughly justifiable, for property would rise in value as soon as order was restored, and it was unfair that the creditors alone who took property in lieu of payment should suffer nothing from the fall in value of land caused by the war. Lastly, Cæsar introduced a new bankruptcy act; from the earliest times the debtor who could not satisfy his creditor had been liable to seizure that he might

Impartiality of the new rule.

Economic measures.

pay off by his labour the money of which he had de-
 the creditor by defaulting; the Poetilian Law had ready
 introduced some modification by allowing a man w-
 temporarily embarrassed and who could swear t-
 possessed property equal in value to the debt to s-
 freedom by the cession of his property, and further-
 that no citizen should be led away to bondage except-
 sentence of a jury; but this by no means abolished-
 imprisonment for debt, since the case of those wh-
 palpably insolvent was not touched at all. The law-
 by Cæsar applied to the latter class, and laid do-
 the principle that an insolvent debtor could save his lib-
 ceding his property, no matter what the value of this-
 be, thus directly abolishing imprisonment for debt.

The
 Finance
 System.

No department of the administration had been man-
 a more haphazard fashion than the finances, probably-
 reason that there was no official entrusted with the-
 of the Exchequer and responsible for its condition. The
 financial administration lay in the hands of the Sena-
 assigned the various sums to the different department-
 monies were paid out and received by the Quaestor-
 were the clerks of the Exchequer; but only a very in-
 supervision was exercised over the accounts handed in-
 various magistrates. The result of this system, or w-
 system, was that the Roman finances were always in-
 state of confusion; the Government never got the value-
 money; sometimes there was a huge surplus brought in-
 by a victorious campaign, and then when this had been squa-
 the treasury was found wanting in a crisis. In fac-
 curious objection to a careful supervision of the financ-
 the primary cause of the system of collecting taxes th-
 middlemen who paid a lump sum and made what they-
 for themselves; here again the State received less th-
 due, and the people suffered, but the Government was-
 a large amount of trouble. All this was altered by-
 who regulated and revised all the various items of in-
 and expenditure.

Among these arrangements was the reimpositio-
 harbour dues on imports in the Italian harbours, wh-
 reb-
 reb-

the State chest gained permanently a considerable sum each year. An important though temporary source of income was found in the fines imposed on the subject-kings, and members of the Pompeian party, which it should be noted all went, not to Cæsar himself and his favourites, but to the Treasury of Rome. But more important than these were the new financial regulations for the provinces; excessive burdens were lessened, as in the case of Spain and Asia, the Gracchan system in the latter case being abolished; in the imposition of taxes on the new provinces the strictest moderation was observed. In a few cases their burdens were increased temporarily by way of punishment for their share in the Civil War; but on the whole it is plain that Cæsar's aim was to prevent the impoverishment of the provinces for the benefit of the capital, the governors and the publicani. On the other hand the Treasury had been freed from an intolerable drain by the limitation of the Corn doles, and this enabled Cæsar to undertake the necessary measure of raising the pay of the legionary from 480 to 900 sesterces a year, the former amount having been fixed at a time when the purchasing power of money was immeasurably greater than it was in 46 B.C. Moreover Cæsar was right in thinking that if the soldier received a fair remuneration he would be less likely to look to the possibilities of loot for a fair recompense. The military expenditure was further increased by the maintenance of standing armies on all the frontiers and the handsome donation in money which Cæsar was the first to give to his troops from the State chest. Lastly, Cæsar spent large sums on necessary works and public buildings. The beneficial effect of his financial activity is best shown by the fact that in spite of the huge expenditure the amount of the cash balance in the Treasury was more than ten times as great as it had ever been under the Republic.

Much was done for the city itself by the institution of a better form of police, a reorganisation of the fire brigade, a strict supervision of the streets and buildings, these departments all being assigned to the Aediles by whom hitherto they had been carefully neglected. In Italy the municipal system which had grown up since the Social War was judi-

The city
and the
municipalities.

The Pro-
vinces.

ously encouraged, and the right of electing their own municipal magistrates with certain civil and criminal jurisdiction was expressly guaranteed to the Italian towns. But still more was done for the provinces. The old idea that the Roman Empire was conterminous with Rome, or at most with Italy, disappeared finally with Cæsar's reforms. For many years the Democratic party had looked beyond the shores of the peninsula, and the best features in their programme were adopted by Cæsar. By the sending of Roman citizens to the provinces as colonists the outlying parts of the Empire were brought into closer contact with the centre; some provincial towns such as Gades received the Roman citizenship, others, such as the towns of Sicily, received immunity from taxation by the conferment of Latin rights, and this boon might well seem to provincials a preliminary step to the attainment of equality with the inhabitants of Italy and Rome. In the case of the old provinces excessive taxation was reduced, in the new provinces the taxes were imposed on a fair and moderate scale. But the taxation had not been the only evil under which the provincials groaned while the provincial system was in the hands of the Senate; tyranny and oppression of every sort were indulged in by the Roman governors; the lives of the men and the honour of the women were held of little account by men of the type of Verres; and it was said that a town suffered not less from the quartering of a Roman army within its walls than from capture by the enemy. Everywhere it was the same; the provinces were regarded as the estates of Rome to be farmed for the benefit of the senators sent to administer them, and the provincials as their slaves from whom the temporary masters were entitled to extract as much as they could. There were examples of a better state of things; but they only served to show up the prevailing dark tints of the picture, and the Romans who, like Cicero, took a humane and statesmanlike view of the duties of a governor to his subjects provoked in his associates more contempt than admiration.

All these evils had arisen from the lack of effective control; the Aristocratic Government with its narrow Italian policy found itself called on to govern huge transmarine

possessions, and the method adopted was to delegate practically unlimited power to its servants.¹ Occasionally a successful prosecution was undertaken by the provincials against an especially notorious robber, but only the most flagrant cases came to Rome. The governors felt the supervision of the Senate to be a farce, and they acted accordingly; it was nobody's business to look after the interest of the provincials and the system of oppression was tolerated and encouraged. Cæsar entirely changed the old system of organised carelessness. The master of Rome was master of the provinces too; he recognised the duty which the monarch owed to his non-citizen as well as to his citizen subjects. The old annual system was maintained for the most part and the provinces were distributed among the two ex-Consuls and the ex-Praetors now raised in number to sixteen. There were beside the fourteen old provinces comprising Sicily, Sardinia, two Spains, Macedonia with Greece, Africa, Asia, Transalpine Gaul, Cisalpine Gaul, Bithynia, Cilicia with Cyprus, Syria, Crete, and Cyrene, three new ones, Lugdunese Gaul, Belgica, and Illyricum which was now separated from Cisalpine Gaul. The existing system was so far altered that the Pro-Consul held office generally for two years and the Pro-Praetor for one; moreover there was some room for selection inasmuch as the number of candidates slightly exceeded the number of provinces. But the great change lay in the direct responsibility of the governors to a master who had determined that the provincials should be treated fairly. Of the sixteen Pro-Praetors eight were directly nominated by Cæsar and the whole distribution depended on him alone, while the elections were entirely under his influence. It followed therefore that the governors were men whom Cæsar could trust, and who understood that no liberties must be taken with the provincials. Thus the great feature of Cæsar's system lay in the substitution of responsibility to a powerful ruler for the loose relation hitherto subsisting between the governors and the Senate. As a further safeguard for the subjects the governors could be recalled by Cæsar, and a certain number of Legati directly

¹ See p. 200 *sqq.*

dependent on Cæsar were attached to the staff of each governor; moreover while the administrative and judicial duties of the governor remained for the most part unimpaired, the supervision of the financial operations was undertaken by emissaries of Cæsar even though the actual collection of the taxes was left to the governor. The irresponsible provincial satrap ceased to exist, and his place was taken by a governor working under the eyes of a stern master who was quick to punish with exemplary severity any transgression against the system by which he hoped to foster the prosperity of the provincials.

Thus the administration of finance and the provinces, and with the latter, as was natural, the whole conduct of the foreign relations of Rome passed at once to the ruler. The administration of the city too was closely superintended by himself; two new Aediles were created with the special duty of looking after the corn-supply (Aediles *ceriales*); and the old practice which had been in abeyance since the expulsion of the kings of delegating the government of Rome to a *Praefectus urbi* in the absence of the ruler was revived by Cæsar.

The Army. The military system also came to be peculiarly dependent on the ruler. The old Roman citizen army had entirely disappeared and the legions were recruited from the lowest classes of the populace. Moreover the corruption which had pervaded all branches of the administration had spread to the army as well; posts were filled by favour, or sold to the highest bidder; the men were defrauded of their pay; the reins of discipline were relaxed, and the Roman armies pillaged their friends as freely as their foes. The real fault lay with the generals and officers, for Cæsar's own example showed that a perfect army could be made even from the unpromising material he had to shape. Numerous changes were made without any alteration in the basis of the system; discipline was restored, and the chief provision against the recurrence of the old abuses lay in the fact that Cæsar as supreme commander of the Roman forces would tolerate no irregularities. Moreover there appeared now for the first time the '*legati legionis pro praetore*,' first

appointed by Pompey under the terms of the Gabinian Law ; these officials, who held Praetorian rank, were attached to each legion and were appointed not by the general but by Cæsar himself.

The judicial system remained the same except that Cæsar ^{Judicial} claimed and used the right of bringing any criminal or civil ^{System.} case to his own bar and finally deciding it without appeal, thus reviving the judicial powers of the old kings. As to the juries they were chosen from the Senators and Equites, the Tribunii Aerarii being excluded. With the State religion ^{Religion.} Cæsar interfered but little ; the number of Pontiffs, Augurs, Decemviri sacris faciundis and Epulones was increased ; Cæsar was already Pontifex Maximus, and in this position exercised a general supervision over the State religion. As chief Pontiff he undertook one of his most useful works, the reform of the calendar. The old method was inexact in itself and had been reduced to absurdity by bad management, until the calendar had come to be no less than sixty-seven days ahead of the true time. With the aid of Sosigenes, a Greek mathematician, Cæsar introduced the Julian calendar which came into effect on January 1st 45 B.C.

In all his reforms Cæsar held to the Democratic principle ^{Cæsar's} that the people should be consulted ; all the laws were passed ^{methods.} by the popular vote ; but here his adherence to the old Republican forms stopped short. Though the actual form under which he intended ultimately to exercise his powers may be uncertain his absolute supremacy over the whole Empire, at home and abroad, is patent. Republican institutions were allowed to exist, but nothing was tolerated that could interfere with the absolutism of the monarch. The ^{The} power of the Senate was swept away ; it was to remain as ^{Senate.} a council to give advice to the ruler when he chose to consult it. The Senate of Cæsar was to be again the Senate of the early kings ; it was not to have the prestige which attached to the old independent assembly of ex-magistrates ; its very composition depended on Cæsar by reason of the Censorial power he wielded. Admission was still gained by office in the normal way, the Quaestorship carrying with it the title to a seat. Firstly, Cæsar raised the numbers of the

Senate by extraordinary selection to 900, and to provide an abundance of new members, he raised the number of Quaestors from twenty to forty, and in their election the principle was adopted that one half must be candidates nominated by Cæsar himself. Secondly, the ruler's influence on the composition of the Senate was increased by the power of conferring on anyone he chose honorary rank whether Quaestorian, Praetorian, or Consular, such rank always carrying with it a seat in the Senate. Finally, Cæsar broke for ever with the old traditions by admitting to the Senate leading provincials, sons of freedmen and the like, thus finally destroying the exclusively noble character of the old Council and establishing the principle that in the new state nobility must depend not on birth or office but on the monarch.

The new
Empire.

This account of Cæsar's work shows the vast difference between this great revolution and all that had preceded it. It was undertaken not by a party politician for party reasons, but by the master of the Roman Empire determined to use his power for the good of the Empire as a whole. Cæsar's rule was the triumph of order. For years the Government had been falling into chaos under the short-sighted rule of an incompetent Aristocracy; in 67 B.C. the people had revolted; the demand for efficiency had resulted in the Gabinian Law and the Empire was the logical outcome of this revolt. Cæsar had begun his political career as a Democrat, and the democratic tendencies which had been growing for generations all found their expression in Cæsar's monarchy. A change in the central government was necessary and experience had shown that such a change could only be effective if the strong rule of a single disinterested man was substituted for the sordid and incapable government of the Senate. Rome had outgrown its constitution, and Cicero and the adherents of the Republic failed to see that the old government to which they were always harking back was impossible. The Roman Empire could no longer be governed with the machinery of a city state; for two hundred years this had been breaking down, and the general disorganisation became greater in proportion as the Empire grew. Cæsar was the first man to take an imperial view of the Empire; he saw the necessity

of welding into one complete whole the numberless communities and distant provinces of which the Empire was composed. At home and abroad he was the supreme ruler determined to exact obedience from his lieutenants and to establish once and for all the doctrine of responsibility. The State was no longer contained within the walls of Rome; it was no longer a city-state with outlying farms to be worked for the benefit of the people at home. Henceforth the city was to be the capital of the Empire, the greatest city of all and the seat of Government, but only one city among many, and the old machinery of the city state, the Consuls, the Praetors and Aediles were henceforth to be engaged like the magistrates of other cities in their municipal duties.

This wonderful reorganisation, in which no detail that could make for a good and orderly government was overlooked, was effected by Cæsar in the fifteen months' leisure at Rome which was left him by his opponents. Still only a portion of his work was done, and when he returned to Rome from Spain in October 45 B.C., he had but a few months before it would become necessary to start for his operations against the Parthians. Rome had never enjoyed so good a government as during those few months; the mass of the people were quiet and contented, the provincials for the first time in the history of Rome found their rights respected, civil war was ended, and though the clouds still hovered over the Parthian frontier, the Roman Empire felt itself peaceful and secure. But the blow was to come from within. There were some fanatical admirers of Republicanism at Rome who could conceive of no greater evil than the loss of the active political life, the debates in the Senate and the routine of elections in the midst of which they had lived their life. Cicero and others hoped that when Cæsar returned from Spain he would lay down his extraordinary power and allow the old Republican Government once more to go blundering on in the old way. They had no appreciation of the immeasurable blessings which Cæsar had conferred on them; they did not see, or would not see, that Cæsar had given a fresh lease of life to the diseased body of the Empire; the prosperity and happiness of the provincials and the peace of the world weighed

little with them against some trumpery violation of old Republican forms.

In these last months it would seem, too, that the terrible strain of the last few years had affected even Cæsar's spirit, that he sometimes lapsed from that perfect courtesy of demeanour and consideration for the feelings of others that had been so great a factor in his success, and had enabled him to turn so many bitter opponents into staunch friends. After the battle of Munda he took less pains to conciliate Republican feelings and avowed his absolutism more freely; his head was allowed to appear on the coinage after the manner of the Eastern kings, his statue was placed among the seven kings on the Capitol, he seemed to be forming round him a kingly court, and the adoption of his nephew Octavius and the honour shown to him pointed to the probability that Cæsar had in view some form of hereditary monarchy. It may even be that the offer of the crown to him in January 44 B.C. was not without its significance, and the enthusiasm which greeted his refusal of it showed at least that though the Romans might acquiesce in a Monarchy they were not yet prepared for a King. Cæsar's one great mistake was that he underrated the attachment of a large number of the people to the old empty Republican forms, and did not appreciate the gap that had been left in the lives of so many by the loss of the keen contentions of their former political life. Cæsar was himself a statesman; he could not conceive the narrow-mindedness of men like Cicero who could ignore the benefits his government had conferred and loathe him with the bitterest hatred because he had allowed Caninius Rebilus to become Consul for one day on the death of Fabius Maximus on the eve of the elections. This was his crowning crime; that he had dared to estimate the antiquated chief magistracy of the Republic at its true worth.

Murder of Cæsar. In March it was Cæsar's intention to leave Rome for the Parthian war; the Consuls and Praetors for 43 B.C. and 42 B.C. were selected and all arrangements made for the government of the Empire in his absence, when all his plans were cut short by his murder on the Ides of March. With whom this plan originated will never be known; probably with Cassius or

one of the conspirators who joined the plot, not for any political considerations, but merely from envy and vindictiveness. They were joined by a few stupid and unpractical adherents of the old Roman traditions and claimed the noble title of Liberators of Rome. A more brutal and stupid crime was never perpetrated; nothing was achieved beyond the removal of the one man who saw clearly the necessities of the time and could ensure the peace of the Roman world. The value of the 'freedom' they had won and the impossibility of the Republican ideal was soon clearly shown in the civil war that followed. The murder of Cæsar brought them no nearer the realisation of their dreams. From the time of Marius the idea of a personal government founded ultimately on the power of the sword had been gradually growing; and though many of the Romans and the Italian middle class as a whole hailed the death of the tyrant with joy and clung to the empty form of a Republic, the immediate result was only to delay for another generation the fruits of the good seed Cæsar had sown, and to open the way for a long and murderous struggle between those who had not Cæsar's genius but still desired to wear his mantle.

The character of Cæsar lies beyond the scope of this work. His career falls naturally into two parts—his rise to power and his tenure of power. In the former there may be room for censure, in the latter there is room for nothing but admiration. Cæsar was associated by family ties and personal inclination with the party that had been trodden under foot since the time of Sulla; he could only win his way to the front by taking advantage of the political circumstances of his day; Catiline and Pompey, Clodius and Crassus were all made to serve his turn, and nothing could exceed the wonderful skill with which he pulled the strings of politics while all his puppets seemed unconscious of the hand that moved them. Cæsar's record in the earlier part of his career was perhaps not quite clean; but it has already been shown that some of the charges against him rest on very insufficient evidence. Whatever may be said of the means by which he gained his power, nothing can be

said against the use he made of it. Even before he became the master of the Roman world he had conceived his imperialistic policy. Had he lived to complete his work the Empire would have been safe from attack without and free from discord within, and the peace of the Roman world which heralded the advent of Augustus to the Imperial throne would have been established and guarded by even a stronger hand. For all that was best in the work of Augustus Cæsar had prepared the way; the elevation of the provinces, the creation of a well-ordered world-empire out of the decaying fabric of a city state, the new conception of a monarch's duty to all his subjects of every rank and every party, were Cæsar's inestimable contribution to the foundation of the Roman Empire.

CHAPTER XVI

THE STRUGGLE FOR THE CROWN

THE position at Rome after the murder of Cæsar was Rome after curious; the Liberators had no further plans; their Cæsar's work began and ended with the death of their enemy; murder. they had no scheme for replacing the government of Cæsar; they seem to have expected that the old Republic would automatically renew its existence when once Cæsar was removed. They had no armies to back them, and no assurance that their act would be regarded with approval by the mass of the people; while Antonius the lieutenant of Cæsar, who was now sole Consul, was on his side equally uncertain of the real strength and extent of the conspiracy. So the Liberators shut themselves up in the Capitol and Antonius shut himself up at home, the Senate was scattered, and the executive was left to take care of itself.

The first to recover from this temporary paralysis was Lepidus. Lepidus, Cæsar's Master of the Horse, who by shifting his available troops from the island of the Tiber to the city prevented the possibility of the conspirators getting the city into their hands. Antony took heart and appeared again as Consul, and Dolabella, to whom Cæsar intended to leave the Consulship after he had gone to Parthia, secured election to the vacant Consulship, though Antony used his power of 'obnuntiatio'¹ to render the election invalid. He offered no opposition however when Dolabella assumed Consular insignia, but used his time to greater advantage in securing the treasure which Cæsar had deposited in the temple of Ops, together with all the

¹ This right of 'obnuntiatio' had been abolished by Clodius, but after that time there seems to have been much confusion, and the law was not always observed.

Dictator's private papers, a valuable possession for the future.

The
Senate and
the crisis.

With Antonius, Lepidus, Dolabella and the Liberators, all standing in very doubtful relations one to another, the outlook of affairs was none too bright. On March 17th was held a meeting of the Senate. This body had been entirely reconstructed by Cæsar, and though doubtless there were many members who held Republican views, it can hardly be doubted that many were supporters of Cæsar. The question before them was a difficult one; were the Liberators to be punished as murderers, or was Cæsar to be regarded as a tyrant, and his murderers allowed to go unpunished? The occasion was seized by Cicero, the one honest Republican, who proposed by way of compromise a general amnesty. This was in fact the only motion likely to commend itself to all parties; the extremists, who held that Cæsar was a tyrant, would have invalidated all Cæsar's past acts, and this would have met with energetic opposition from all the Cæsarian Senators; the latter, on the other hand, could not but see that to punish Brutus and Cassius, the chiefs of the Liberators, was to play into the hands of Antony; in this difficulty the compromise of Cicero was adopted; an amnesty was granted to the Liberators, and at the same time all Cæsar's 'acta' were confirmed, not only all the regulations he had already made, but any he still intended to make, of which there was documentary evidence in his papers. This compromise was directed solely by expediency; if any form of stable government was to be evolved, it was highly undesirable that any two parties should be set at variance with one another to start with. Brutus and Cassius continued to be Praetors, and Antony was thoroughly satisfied with the arrangement, for he saw clearly what immense power would be placed in his hands in consequence of this decree by his possession of Cæsar's papers.

But the position of affairs was impossible; the peace was merely an armistice, for no one could imagine that the continuance of good relations between Antony and the Liberators was possible. At the public funeral of Cæsar,

Antony's harangue roused the people to fury, and though he spoke of the Liberators with great show of respect, they were forced to fly from Rome to ensure their personal safety, Antony himself proposing in the Senate the decree which was necessary to enable Brutus, the Praetor Urbanus, to be absent from Rome for more than ten days.

His chief opponents removed from the city, Antony ^{Triumph of} assured his position by a close rapprochement with Lepidus ^{Antony.} and Dolabella. To the former he assured the office of Chief Pontiff, the latter was recognised as Consul in spite of the doubtful validity of his election, and he was promised the province of Syria. With no one to oppose him actively, Antony began to run riot in Rome; with the aid of one of Cæsar's secretaries papers were forged and produced among the 'acta Cæsaris' in virtue of which Antony granted lands, conferred immunities on provincial towns, and restored exiles. He passed a law abolishing the Dictatorship, the basis on which Cæsar's power had been built. This was intended as a sop to the Senatorial party; it really had no effect, for an absolutism at Rome was quite possible without the Dictatorship, especially after the precedent of an accumulation of offices afforded by the case of Cæsar. To gratify the army, a new panel of jurymen was added to those of Senators and equites left by Cæsar, the new section to consist of Centurions. To all these operations no effective opposition could be offered; Cicero and the Senatorial party could only oppose Antony by words. But though he was supreme in Rome, he had everything to fear from the provinces; for the recognition of Cæsar's acts, which formed the basis of his power in Rome, necessitated also the entrusting of the provinces to those whom Cæsar had nominated, many of whom were numbered among his murderers, and consequently among Antony's bitterest political enemies, Decimus Brutus, Governor of Cisalpine Gaul, Trebonius of Asia, and Cimber of Bithynia for 44 B.C., and Brutus and Cassius designated as governors of Macedonia and Syria respectively for 43 B.C. Thus though Antony might be without a rival at home he would soon find himself surrounded by enemies, even if Lepidus who had gone to

Narbonese Gaul, and was at the head of a strong army, stood loyally by him. It was clear that Antony must make some effort to alter the provincial arrangements. Of all the provinces Cisalpine Gaul, which was in the hands of Decimus Brutus, was the most important for the master of Rome, for there was maintained the nearest army to the Capital; its value had been clearly demonstrated in the late Civil war. Further, the arrangement of the Eastern provinces was such that if the governors could hold their commands beyond the actual end of the year 44 B.C., the early months of 43 B.C. would see almost the whole East from Syria to Macedonia solid in the cause of the Liberators. By this time the struggle had resolved itself into a fight between Antony and the Senate, who saw that Antony was endeavouring to play the part of Cæsar, and desperately opposed the redistribution of the provinces which was carried in spite of their protests. According to this, Antony himself was to receive Gallia Cisalpina, C. Antonius Macedonia, and Dolabella Syria. Brutus and Cassius were to be kept away from Rome for the present by receiving the supervision of the corn supply from Sicily and Asia, and for the following year 43 B.C., they were to receive the unimportant provinces of Crete and Cyrene. The two chiefs of the Liberators left Rome; but instead of proceeding to their duties of organising the imports of corn, they eventually set out for the provinces they had a right to claim, and began to levy troops to maintain their positions. The general result of the first few months' proceedings after the murder of Cæsar was to unite against Antony the Senate and the party of the Liberators between whom there had been at first no marked degree of friendship, many of the Senators having been beyond doubt personal adherents of the Dictator. For the present Antony was gaining ground, and even Sextus Pompeius, who had raised a force in Spain and maintained his ground against Asinius Pollio, the governor, and to whom Cicero and his party looked confidently for support against Antony, was won over to his side by the promise of the restoration of his father's property.

Octavius. Meanwhile there was one man at Rome whom Antony had

overlooked in all his calculations and who was hardly likely to inspire much apprehension in the mind of the ruler of Rome; this was C. Octavius, the grand-nephew of Cæsar. This young man had been regarded with great favour by Cæsar who had adopted him as his son in the will made shortly before his death. It is probable that Cæsar intended to watch over the military and political training of his adopted son and designate him in course of time as his successor in the monarchy. Immediately on hearing of the death of Cæsar he set out from Apollonia to Rome, and after spending a few weeks on the property of his step-father at Naples he first appeared in the city and addressed a 'Contio' in the month of May, announcing openly his intention to take upon himself all the rights and burdens that devolved on Cæsar's heir. It was a dangerous position for a boy of eighteen; but Octavius had come to Italy determined to avenge his uncle's murder and to claim his rights; to the end his resolution never faltered, and he pursued his aim through the tortuous mazes of political intrigue with a clear-sightedness worthy of all admiration. At the very threshold of his career he found himself confronted by Antony, who had appropriated a large part of Cæsar's property, and was unwilling to disgorge any of his ill-gotten gains to a mere boy. Octavius however brought the master of Rome to reason by a threat of appealing to Cæsar's veterans settled in Campania. He thus recovered most of his property, satisfied all the legatees under his uncle's will, and was received with open arms by many of Cæsar's truest friends, such as Oppius and Balbus. Antony still contrived to thwart him, and when the necessary formal law was introduced before the Comitia Curiata sanctioning his adoption into the Julian Gens, he secured its rejection by the veto of a Tribune. But in spite of this flaw in his title, Octavius henceforth called himself C. Julius Cæsar Octavianus and was universally regarded as the legitimate heir of Cæsar. This recognition was no small advantage. The name of Cæsar was one to conjure with in all dealings with the soldiery. Already in Macedonia, when Octavius first set out for Italy, the legions had offered to place themselves at his disposal and help him

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to avenge the death of his uncle. This plan did not commend itself to Octavius' caution, and he determined to return to Rome and win his way by less dangerous methods, never losing sight of his ultimate aim. Now the assumption of the great Dictator's name marked him out still more clearly as the probable avenger of his great namesake, and while Antony ignored him, and the Republican party regarded him with suspicion and distrust, the friends of Cæsar kept him in view as a rallying point of their party, when the time came to strike a blow in revenge for their master's death.

Position of
Cicero.

Among the Senatorial party there was no one identified more closely with the Republican cause than Cicero, and no part of the great orator's life is more worthy of admiration than this closing scene. Destitute as he was of statesmanlike ability and deeply imbued with ideas that could never be realised, forming his political opinion from books rather than men, it is not to be wondered at that he was carried away by admiration for the 'heroes' or 'gods' who had murdered Cæsar. To the Greeks tyrannicide was a glorious achievement, and to the unpractical Cicero Brutus and Cassius were worthy of all the panegyrics that the vivid fancy of the Greeks had ever lavished on Harmodius and Aristogiton. Utterly unable to read the true characters of those with whom he had to deal he never saw how sordid and low were the motives that inspired most of the conspirators to do their mad deed. Cicero perhaps did not live long enough to see to its full extent the folly and futility of the murder. He saw in the glorious tyrannicide, of which he complains only that it did not go far enough and that Cæsar's lieutenant did not share his master's fate, the first step towards the rehabilitation of the Republic, and no sooner was the fact of Cæsar's death announced than Cicero came forward once more from his retirement as the champion of the dying Republican cause. Cicero's ideal was a wrong one; but from this time to the hour of his death he stood manfully by his cause though fully aware of his danger. Once already Cicero had forsaken the honourable course and thrown in his lot with the Triumvirs; he no longer admits the possibility of submission to the stronger cause, and hints in his letters that his life will now be

too high a price to pay for the safety of the Republic. But during the greater part of the year open opposition to Antony was useless; nothing was to be gained by attacking Antony while he was still Consul and the Republicans had no power behind them. Cicero's first plan seems to have been to wait till the following year, to assure themselves of the support of the Consuls of 43 B.C., Hirtius and Pansa, and then with their support to declare Antony a public enemy. But the opposition in the Senate to Antony came to a head sooner than Cicero had expected, and he gave up his journey to Greece to return to Rome, where on September 2nd he delivered his first attack on Antony, the First Philippic—a bitter criticism of Antony's whole policy and especially of his reckless misuse of the decree confirming the 'acta Cæsaris.' On the 19th of the same month Antony delivered his reply; Cicero was not present. The angry threats which Antony had uttered on hearing of Cicero's speech caused the orator again to retire from Rome and wait a more favourable opportunity for leading the Senatorial opposition; he had thrown down the challenge; the struggle between him and Antony must end in the overthrow of one or the other, and from this time forward Cicero, in spite of his natural timidity, marched boldly forward.

Meanwhile Octavius had been carefully watching the Progress of affairs. His project of avenging his uncle's death and of ultimately continuing his work had never yet been divulged; he had secured recognition as the heir and successor of Cæsar; but his position was still a difficult one. It was abundantly clear that Antony was using his position as the friend and lieutenant of Cæsar to secure absolute power for himself; if Antony achieved this aim while Octavius was still a young private citizen, the ultimate attainment of Octavius' aims would become distant and difficult; on the other hand, the heir of Cæsar could hardly associate himself openly with Cæsar's murderers. These difficult circumstances served to bring out Octavius' skill in political intrigues; he preserved the appearance of friendship with Antony while still coquetting all the time with Cicero as the leader of the Senatorial party. He always treated the orator

with the greatest deference, and though Cicero regarded him with no little suspicion on the grounds of his connection with Cæsar and his intimacy with the old and tried friends of the Republic, he seems not to have been without hope that he might educate Octavius to the Republican cause, and induce the young man to lend the weight of his name and influence to destroy the tyrant Antony.

Union of
Octavius
and the
Republicans.

In the summer of 44 B.C. it seemed that the breach between Antony and the Senate must end in war, for Antony summoned four legions from Macedonia, and in September they had already arrived in Brundisium. It was generally anticipated that Antony would with this army march on Rome, seize the Government by force, and proceed to remove his enemies in the usual way. Octavius saw his danger; it was clear now that if he would avoid being crushed by Antony he must join the party that looked for support to his uncle's murderers, and leave the final revenge to the chances of the future. His only chance for the present lay in posing as the champion of the Republic against the tyrant Antony, and by this means securing a sufficient force to ensure his own safety. For some time past he had been gradually drifting towards this line of action; but the suspicion with which he was naturally regarded as the heir of Cæsar prevented Cicero and the Constitutionalists from receiving his advances with any cordiality. Now, however, their fears of Antony changed their plans, and they were ready to use Octavius as a useful weapon to fight their battle, expecting to be able to throw him aside as soon as they had disposed of Antony.

Outbreak
of war.

No sooner had Antony left Rome for Brundisium than Octavius began to raise a force among Cæsar's veterans in Campania with the declared intention of protecting Rome against Antony. Three thousand men soon joined him and his agents tampered with the Macedonian troops to such effect that as soon as Antony had left Brundisium for Rome two of the legions joined Octavius, who found himself with a sufficient force to checkmate any attempt on the part of Antony to obtain possession of Rome by force. Matters remained thus till the end of November when Antony left

Rome to drive Decimus Brutus out of Cisalpine Gaul. Octavius was now in a curious position; he was generally regarded as the rival of Antony in the Senatorial cause, he was at the head of a small but highly efficient army, he was only in his twentieth year and held no office entitling him to command a Roman army. A recognised official position was needful for the commander of the Constitutional party, and to secure this for him Cicero again came to the front. For some weeks Octavius had been in constant communication with Cicero and had quite allayed all his fears; he had assured him that he was ready to be fully reconciled to the Liberators and was thoroughly loyal to the Republic. On the strength of these assurances Cicero went to Rome and entered with the greatest zeal into the cause of Octavius who was preparing to follow Antony to Gaul. For the next few months Cicero directed the policy of Rome. His return to the city was signalled by the publication of the Second Philippic, and in a meeting of the Senate on December 20th, he laid down the lines of the policy which they should pursue. Octavius' acts should be approved, he must be entrusted with a definite command, and Antony's acts, especially his redistribution of the provinces, must be cancelled. This was equivalent to a declaration of war against Antony; but the Senate was hardly prepared for such vigorous measures, and the discussion was renewed on January 1st 43 B.C., when the new Consuls Hir-tius and Pansa, of whose support Cicero had assured himself, entered office. On this occasion the debate lasted several days, and again the majority were unwilling to declare war against Antony by name as Cicero proposed. The position was complicated, for the province of Cisalpine Gaul had been duly assigned to Antony by a decree of the people, and the Senate shrank from openly declaring war on him for taking a province to which in strict law he had a right. They compromised the matter by deciding to send an embassy to restrain Antony, who was preparing to attack Decimus Brutus in Mutina, from commencing hostilities, adding to their demands a clause to the effect that war would be declared if he refused to submit to the authority of the Senate. In the same decree the Senate gave official recognition to

the position of Decimus Brutus, and promised considerable rewards to the soldiers of Octavius; and, what was still more important, Octavius received a definite Imperium as Proprætor, while he was also admitted to the Senate among the Consuls. The negotiations with Antony fell through; his demands for a five years' command with five legions and the confirmation of all his acts were of course rejected, and the Senate was forced to take action. But again they refused to take the extreme line indicated by Cicero, and instead of proclaiming Antony a public enemy they passed a vote declaring that a 'tumultus' existed and authorising the Consuls and Octavius to quell the disturbance. The difference was one rather of name than anything else; a 'tumultus' or 'rising' was generally regarded as a local affair, and the majority of the Senate may have hoped that if Antony's power were once crushed in the North it might in these circumstances be easier to arrive at a peaceful solution than if Antony were declared a public enemy, a declaration which would necessitate the pursuit and final destruction of Antony and his army.

Defeat of
Antony.

In March 43 B.C. the Consul Pansa set out for the North where, since the end of November, Antony had blockaded Decimus Brutus in Mutina, while Octavius and Hirtius were camped in Antony's rear. During this pause Cicero's efforts were directed to securing the adhesion of Lepidus, Plancus governor of Northern Gaul, and Pollio governor of Further Spain, to the Senatorial cause. Though Cicero held no official position in Rome, he was generally recognised as the director of Rome's policy in this crisis, and dispatches were continually passing between him and the governors of the Western provinces. Nothing resulted, however, except that they waited quietly to see how affairs were likely to turn out before interfering. The immediate result was the defeat of Antony who withdrew across the Alps, where he was received with open arms by Lepidus, while Pollio and Plancus showed the value of their protestations to Cicero by joining him later in the same year.

The Senate had triumphed, but at no small cost. Both the Consuls had fallen in the struggle, and the Government was

left without an official leader face to face with the various commanders. Of the generals who had saved Rome from the clutches of Antony Octavius alone was left, and he might not unnaturally expect the supreme magistracy in return for his services, though in law he was ineligible on account of his youth. Octavius' plans had met with an unexpected success; he had driven Antony from Italy with the aid of the Senatorial forces, and the opportune death of the Consuls left him with no more serious rival than Decimus Brutus, who had shown his political incapacity by his dilatory tactics at the beginning of the struggle, when a rapid blow struck at Antony before he could consolidate his power might have assured the supremacy in Rome to the Liberators.

In earlier days, while the Republic was a reality, the loss of both Consuls would have been followed by the appointment of a Dictator or an Interrex. The Dictatorship had been declared illegal by Antony's law. The Interregnum was more or less obsolete, and Rome had in 53 B.C. and 52 B.C. already had experience of several months without its supreme magistrates. For the present no steps were taken for the election of new Consuls; Cicero and his friends were overjoyed at the victory over Antony, and perhaps equally pleased at the prospect of being able henceforth to dispense with the dangerous assistance of Octavius. A State thanksgiving of fifty days was decreed, the rewards already promised to Octavius' soldiers were voted, and Antony was now declared a public enemy; but in all their measures no notice was taken of Octavius; he was carefully passed over in favour of Decimus Brutus, to whom was entrusted the sole management of the war against Antony and the command of the forces left without a head since the death of the Consuls. Further, a commission of ten, among whom was Cicero, was appointed at Rome to undertake the revision of Antony's acts, and another to undertake the assignation of lands to the victorious troops.

These measures were taken without any regard to two very important factors, the wishes of Octavius and the feelings of the veterans. The veteran troops had the final voice now in all political questions. This was the ultimate

result of the army-system created by Marius; the fear of the veterans was always in men's minds. The Civil War proved time after time that the army containing the veteran legions was sure of success in the field, and that no numerical superiority could enable the newly-raised troops to stand against them in battle. They were a trained professional soldiery with no loyalty to the Government; for them everything depended on their relations to their general; it was he and not the Government to whom they looked for a donative in the event of success, and for a proper assignation of land. They had nothing to gain by the restoration of peace; they might make a handsome profit by helping one of the pretenders to the throne that Cæsar had occupied. It would seem that Cicero and his party underrated their influence, and had no conception of the imminent danger that threatened themselves. In the East the cause of the Libertators had flourished; Brutus and Cassius had been recognised by the Senate as governors of Macedonia and Syria; the former had defeated and captured Gaius Antony at Buthrotum, the latter had destroyed the power of Dolabella and was entirely master of Syria. Relying on their assistance the Constitutional party thought they could throw over Octavius now that he had served their turn.

The strengthening of Antony by the adhesion of Lepidus forced the Senate in June again to associate Octavius with Decimus Brutus in the administration of the war. This recognition did not suffice for Octavius. Octavius had carefully avoided hampering Antony on his retreat. He had nothing to gain by continuing a struggle with Antony of which the end was doubtful; he had forced Antony to regard him as an equal, and he immediately began to consider the possibility of uniting with Antony against the murderers of the Dictator. The unnatural union between the heir of Cæsar and the friends of Cæsar's murderers could not last, and in the contemptuous omission of his name in all the proceedings of the Senate after the battles of Mutina Octavius had abundant evidence of their intentions. His plans were at once formed and their success assured by the temper of the veterans; the fourth and the Martian legion, which had one

over to Octavius at Brundisium, had already given an earnest of their support by bluntly refusing to join Decimus Brutus on the Senate's order; the commission in Rome dealing with the assignation of lands was treating the claims of the newly-raised troops as equal with those of the veterans. Octavius then sure of the support of the veterans, with no rival at hand to oppose him (for Decimus Brutus had succeeded at last in making the passage of the Alps to join Plancus, who still professed loyalty to the Senate), came forward and openly demanded the Consulship. A deputation of four hundred Centurions waited on the Senate to ask this boon for their master; the Senate still refused to entertain the request. Octavius waited no longer, but marched at once upon Rome. The only forces available to the Senate were three legions, two of which had been summoned recently from Africa; these had once fought under Cæsar and at once went over to Octavius. Resistance was out of the question, and on August 19th Octavius was elected Consul with Q. Pedius, a colleague whom he himself selected.

Octavius used his power as might have been expected. He fulfilled all the terms of his uncle's will that he had not been able to execute before; the veterans who had stood by him were rewarded by a liberal largess from the State Treasury; the Lex Curiata authorising the adoption of Octavius into the Gens Julia was at last carried through. More important however was the Lex Pedia introduced by his colleague whereby a special 'quaestio' was instituted to try all who had been implicated in the conspiracy against Cæsar directly or indirectly; they were all condemned to exile and in their absence their property was confiscated. Finally, to enable Octavius to proceed against the Liberators later, the decrees of the Senate under which Brutus and Cassius had been recognised as the governors of the East were cancelled. By this means the generals on whom Cicero and his party had depended were deprived of their official position, and marked out as usurpers to be attacked by Octavius in his capacity of Consul or Proconsul.

Among those included in the sentence of exile was Decimus Brutus, who was now isolated in Gaul since Plancus had

Octavius
Consul.

The Tri-
umvirate.

gone over to Antony. The next step of Octavius was to unite with himself all the generals of the Cæsarian cause. He left Rome with his army, ostensibly against Antony, but in reality against Decimus Brutus, and while he was still on his march northward Pedius carried a decree cancelling the outlawry of Antony and Lepidus. Brutus now found himself surrounded; his army dispersed, and he himself was taken prisoner in Gaul and put to death by order of Antony. The chiefs met at Bononia, agreed to a partition of power, and decided on their line of action against the murderers of Cæsar and the Constitutional party. The existing machinery of government was to be left formally untouched, but extraordinary powers were to be conferred on Antony, Octavius, and Lepidus which should place the State practically at their disposal; especially all the provinces at present belonging to the Cæsarian party and the command of the armies were to pass into their hands; all their opponents were marked down for extermination whether under arms or not. After this preliminary arrangement the three confederates marched to Rome, and on November 27th was passed a law whereby Antony, Octavius, and Lepidus were appointed 'Tresviri Reipublicae Constituendae.' This cabal, generally known as the Second Triumvirate, is quite different to the First Triumvirate of Pompey, Cæsar, and Crassus; in the latter case the union was an informal one, existing merely in virtue of a mutual arrangement; the Second Triumvirate was created by the vote of the people, and owed its existence theoretically to a Lex. But it was not in the strict sense of the term a collegiate arrangement. The word 'collegium' implies equality of power between the members, each member exercising to the full all the powers implied in the magistracy. Thus the two Consuls both exercised the full Imperium, and could undertake any of the administrative work that belonged to the Consuls. Hence, though for the sake of convenience the Consuls generally apportioned among themselves the work to be done, a collision was always possible, and in such cases the great principle of collegiality was strictly observed that the 'No' took precedence over the 'Yes,' and a magistrate could always impose his veto on the positive order of a

colleague. No such principle was involved in the Triumvirate. It was rather a coalition of three Autocrats, bound together by strong ties of interest and mutual agreement. As a commission they issued their orders *jointly*; in the absence of one member or more, the remaining colleague or colleagues could issue degrees equally valid. In the event of disagreement arising it did not follow, as in the case of all the collegiate magistracies, that the negative carried the day; such a contingency was left unprovided for, and if it arose the question must be settled by the Triumvirs themselves; and no one could doubt that as soon as serious dissensions began the matter would have to be settled by the very means by which they had gained their position—an appeal to force. The time limit was fixed at five years, *i.e.* till the end of 38 B.C.; Octavius dropped his Consulship, and new Consuls were elected for the remaining months of the year. The powers thus conferred on the Triumvirs were practically the same as had been in former times conferred on Sulla,¹ including general powers of administration and legislation, of passing sentence of death and confiscation, and the disposal of all the armies and treasures of the State. The ordinary magistrates continued to be formally elected; but they were nominated for the whole period by the new rulers of the State. The arrangements made between them for the administration of the West assigned the Gallic provinces to Antony, except Narbonensis, which with Spain was left to Lepidus, while Octavius received Africa, Sicily, Sardinia and the islands. All of them were to govern by means of Legati, as Pompey had done by agreement with Cæsar in 54 B.C. Italy was not included in this division, for Rome and Italy were to be common ground to all the three rulers who were on terms of absolute equality. They did not however intend to administer home affairs in common. As soon as affairs in Rome and Italy were sufficiently quiet, Lepidus was to be left in charge of the city while Antony and Octavius undertook the war against Brutus and Cassius.

The first use made of their power by the Triumvirs was to revert to the practice of Sulla and exterminate their political

¹ See p. 294.

enemies. Even before they came to Rome a short preliminary list had been sent to Pedius containing seven names; but on their arrival in the city the list rapidly grew till it finally included some three hundred Senators and two thousand Equites. There was no semblance of a trial; the selected men were outlawed; it was made a crime to conceal them, and rewards were offered to anyone who gave information of their hiding-places or put them to death. Of all their victims the most notable was Cicero, who could not hope to escape after his bitter attack on Antony, and who refused at the last to save his life by flight from the country he loved so well. We may perhaps credit the account generally received which represents Octavius as unwilling to agree to the inclusion of Cicero's name in the proscribed lists. The opposition was unavailing even if it was ever sincerely offered. Octavius was not in the least likely to allow his acts to be influenced by any sentimental considerations; motives of policy necessitated his agreement with Antony and Lepidus; a proscription was a convenient way of ridding the city of opponents and the consequent confiscations an equally convenient way of raising the money of which the Triumvirs stood so much in want. The responsibility for the ghastly business rests with them all alike. In the proclamation which they issued it was represented as a just act of retaliation for the death of Cæsar, whose murder was used as a pretext for a course of action that was directly at variance with the whole spirit of the great Dictator's career. Further to identify themselves with the cause of Cæsar they bound the Senate and people by oath to observe for all time the 'acta' of Julius Cæsar, and elevated him to the company of the Roman gods.

Importance of the Veterans.

The Republic had now finally disappeared. The glorious result of the murder of Cæsar had been one year of strife between the pretenders, and a nominal Republican government that was at the mercy of the Antonius or any other successful general from the first. In fact the Republican constitution was found to be incompatible with a professional soldiery; the master of the veteran legions must be the master of Rome, and it so happened that among the murderers of Cæsar there was no one man with the ability to take the

lead, or make even a serious attempt to restore the Republic. Cæsar himself had won the throne by means of his army, and it was inevitable that his old soldiers should enlist against his murderers, while among his lieutenants there were many who were ready to play the part of Cæsar without any power to appreciate or any desire to imitate the noble points in his administration. The vital defect of the Republican constitution lay in its fundamental principle, the sovereignty of the 'populus'; as long as the 'populus' was more or less identical with the Comitia, and the Comitia with the citizen-army, there was no fear of an overthrow of the constitution by armed force; but when the professional soldiery came into existence, recruited from the dregs of the populace and looking only to the prospect of filling their pockets, and at the same time the Roman citizenship was so extended that the meetings of the assemblies represented only a chance collection of the inhabitants of the city, it immediately came to be in the power of any general at the head of an army sufficient to overawe the Comitia to pass a bill conferring on himself a power that was virtually equivalent to absolutism, and to usurp by a decree of 'the sovereign people' a power that was incompatible with a Republican government. The Roman system provided no legal checks on the power of the people; there was no force at the disposal of the executive. For generations the Roman constitution had depended on the loyalty of the Roman magistrates, and so long as the army was composed of Roman citizens serving only for short periods and attached to the Republican ideal there was little danger of a *coup d'état*. But from the time of Marius all was changed, and the Republic lay at the mercy of the master of the Roman legions. It might still be hoped by some that when the five years had expired the Republic would be revived. The hope was a vain one; but the cry of a Republic was still found useful when the struggle between the rivals began in earnest.

The Triumvirs found themselves at the outset surrounded by no small difficulties; the troops had to be satisfied, and the property of the proscribed did not suffice to meet all the demands made upon them. In these circumstances they had

recourse to a system of partial confiscation, levying a tax of 10 per cent. on the property of a large number of the citizens. For the veterans too an assignation of land had to be provided. In this matter they made no show of equity, and eighteen towns in Italy were stripped of their lands to accommodate the soldiers whose assistance had placed the Triumvirs in power. These proceedings of course roused widespread discontent; but the will of the veterans was law, and in Rome and Italy there could be no opposition to the rulers. Rome had gained by the death of Cæsar on a plurality of rulers, and as an emblem of this triple sovereignty the heads of the Triumvirs appeared like that of Julius Cæsar on the Roman coins.

The Triumvirs were now able to turn their attention to their rivals. In the East Brutus and Cassius were supreme. Moreover Sextus Pompeius had to be reckoned with. His son of Pompey had escaped after the battle of Munda and collected considerable forces in Spain, where he offered a refuge to all the disaffected. After Cæsar's death Antony at once won him over by promising the restoration of his father's property and repeal of the decree under which he had been declared an outlaw. During the interval that followed the battles of Mutina the Senate had appointed him commander of the Republican fleet against Antony. This had vastly increased his power, and he was now master of Sicily and the Mediterranean; he had a powerful fleet with which he ravaged the coasts of Italy and cut off the corn supplies of Rome. Before sailing to the East the Triumvirs determined to assail Sextus Pompey, and Octavius within whose province the business fell spent some months in trying to subdue him. Failing in this he joined Antony, and leaving Lepidus as Consul in Rome they crossed to Greece and crushed the Republican at Philippi.

A re-division of the Empire was now made and a readjustment of power. It was hardly to be expected that the equal partnership would last. Lepidus had served his turn as mediator between the rivals; their union for the present was sufficiently close to render Lepidus rather an encumbrance

than otherwise. On the ground of treasonable practices Lepidus was ignored. Octavius and Antony came to an agreement whereby his provinces were divided between them, Narbonese Gaul going to Antony and Spain to Octavius, while the old province of Africa went to Antony and Numidia to Octavius. The Eastern world did not come into the division, for though the Republicans had been defeated there was still much to be done. Antony was to remain in Asia to settle the affairs of the East and Octavius to return to Rome to arrange matters as best he could with Lepidus, undertake the operations against Sextus Pompey, and carry on the difficult work of settling the veterans in Italy. It was from this last operation that the next outbreak came. Rome and Italy were full of discontent; the veterans had to be satisfied, and this involved extensive confiscations which largely swelled the number of malcontents; the lower classes as well as the landowners were in a state of ferment, for the navy of Sextus Pompey still controlled the seas and food was at famine prices. In these circumstances Octavius found it convenient to acquit Lepidus of treasonable practices and to compensate him for the provinces he had lost by allowing him to take Africa for his share.

The land allotment was made the excuse for another armed outbreak in Italy. It was an extremely difficult task to execute at the best, and the difficulties were increased by the intrigues of Fulvia, the wife of Antony, and Lucius Antonius his brother, Consul for 41 B.C. The latter, offended at not being associated with Octavius in the allotment of land, rallied all the disaffected, and in the absence of Octavius actually marched on Rome and secured a vague decree of the Senate authorising him to make war, and then on the approach of Octavius set out for the North, where he hoped for the support of Antony's legati. Octavius, however, intercepted and blockaded him at Perugia till the beginning of the following year (40 B.C.) when he surrendered, and the Perusine war, the last of the civil struggles in Italy till the death of Nero, came to an end with the execution of some three hundred of the leading supporters of the insurrection.

treaty of Misenum in which peace was made with Sextus Pompey; he was invested with the government of Sicily, Sardinia, Corsica, and Achaia, and received a handsome sum of money to compensate him for the loss of his father's property. At the same time all who had taken refuge with him, except any who were implicated in the murder of Cæsar, were restored. In return for this he undertook to cease molesting the Italian corn supply. Such an agreement of course was by no means likely to be permanent; but for the time it left Octavius free for the important work of strengthening his hold on the western provinces, and freed Italy from the disturbing effects of the scarcity of corn.

The attempt of Lucius Antonius was the last effort made by a Republican magistrate in virtue of his office to oppose the new rulers. Henceforth, though the Republican institutions continued to exist, the magistrates were as entirely dependent on the Triumvirs as they had been on Cæsar. The holding of a magistracy ceased to confer any real power, and the Consulship came to be merely an honourable reward conferred by the gift of the ruler on one of his adherents for success in the field or other services, the relation of the magistrate to the rulers being exactly that of a subordinate officer to his general. All who wished to gain any preferment were compelled to attach themselves to one of the Triumvirs. Lepidus, who was naturally a weak man and owed his position to the fortunate accident of having been Master of the Horse at the time of Cæsar's death, was of little account. The real power lay with Antony and Octavius, and it was to them that the men of ability attached themselves. Of the two, Antony was still the favourite in the eyes of Cæsar's old lieutenants; in his camp were Asinius Pollio, Plancus and P. Ventidius; it was to Antony that Ahenobarbus the Republican admiral took over his fleet after the ruin of the Republican cause. In fact Antony was the more attractive master, not only by reason of his soldierly qualities which always came to the front in an emergency, but because the provinces under his command were more likely to afford lucrative employment to an able lieutenant than the unprofitable operations

Treaty of
Brundi-
sium.

Anticipating a breach with Antony, Octavius set about securing for himself the Gallic provinces in spite of the agreement recently arrived at. Antony had meanwhile been enjoying himself in the East. After the battles of Philippi he had crossed to Asia and had raised large sums of money from the various towns which had helped Brutus. The Liberators had imposed a heavy tribute on them which was to be paid in ten successive years; Antony did not alter the assessments, but strictly insisted on the payment of the nine remaining instalments in a single year. It was in the course of his progress through Asia that at Tarsus he met Cleopatra, who had been summoned to account for the assistance given to the Republicans. Henceforth Antony became her obedient slave, and remained in Alexandria till induced to rouse himself by a serious invasion of Syria and parts of Asia Minor by the Parthians. Leaving them for the time he crossed to Greece and there met Fulvia who had fled from Italy, and was stirred up by her to commence operations against Octavius. Relying on the support of Lepidus in Africa, making terms with Sextus Pompey, and further reinforced by the Republican fleet under Ahenobarbus which had joined him, he descended on Italy and landed at Brundisium early in the year 40 B.C. The dispute was settled however by diplomacy, and this course was rendered the easier by the opportune death of Fulvia who had been the cause of all the troubles of these two years. In the summer the treaty of Brundisium was made; Lepidus was left in enjoyment of Africa; Sextus Pompey, lately the ally of Antony, was thrown over, and the whole Empire divided into two halves by a line running North and South through Scodra, the East was left to Antony with the burden of the Parthian war, the West to Octavius with the operations against Sextus Pompey. Italy was to be as before common ground; but the actual advantage that Octavius gained by remaining in close contact with the centre of government was no small one. This new alliance was cemented by the marriage of Antony with Octavius's sister Octavia.

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Treaty of
Misenum.

Nullity of
the Re-
publican
institu-
tions.

in Italy and the difficult struggle with Sextus Pompey. Octavius was still a very young man, cold, impassive and ambitious, not the sort of master that an old soldier versed in war would care to serve under. But no man was ever more fortunate in his subordinates; for among them were two men of surpassing abilities, M. Vipsanius Agrippa, in whom Octavius had placed the fullest confidence from his earliest years, and C. Maecenas, who had in the negotiations at Brundisium played the first act in his diplomatic career. The confidence existing between the Triumvir and his two lieutenants was such that Octavius is said to have instructed them to read beforehand all his political correspondence and alter it at their pleasure, giving them each a ring to enable them to seal the dispatches as coming from himself. It was an additional recommendation that these lieutenants were really subordinates who owed their advance solely to their connexion with Cæsar, and were not, like many of Antony's officers, ex-magistrates who could claim equality with Antony in everything but temporary power.

Renewal
of the Tri-
umvirate.

The treaty of Misenum added a fourth member to the ruling Syndicate. Pompey's position had hitherto rested on the decree of the Senate appointing him *Praefectus Classi*;¹ it is probable that his power was still allowed formally to rest on the same basis. It was agreed that the duration of it should be for five years, till the end of 34 B.C., and that on its expiry he should be Consul for 33 B.C. It is probable that at the same time the Triumvirs made arrangements for the continuance of their power after the period of five years fixed by the Titian Law should elapse. The original term would end on December 31st 38 B.C.; it was now only eighteen months distant, and the various operations in the East and West might keep the two leaders apart during the interval. It is intrinsically probable that they took the opportunity of this arrangement to provide for the extension of their powers for a longer period. The authorities for the time speak of two distinct periods of five years each; we know from the words of Octavius himself that he was Triumvir for ten consecutive years, but we know

¹ See p. 396.

of no occasion on which any law extending the Triumvirate was passed. A second period of five years would prolong the Triumviral power from January 1st 37 B.C., to December 31st 33 B.C. Further we learn from Appian that it had been the intention of Octavius and Antony to be Consuls for 31 B.C., and it is possible therefore that the renewal of the Triumvirate was for six years instead of five. The whole question is obscure and no certainty is attainable. It can only be said that probabilities incline to the view that the meeting in 39 B.C. was used to make arrangements for the renewal of the Triumviral power, though the law itself may not have been passed till the beginning of 37 B.C.

Events now hurried on to the final decision of the one great question whether Antony or Octavius was to be the ruler of the Roman world. It was clear that these two alone had any chance of success. The temporary arrangement with Sextus Pompey soon collapsed. Antony refused to give up Achæa to him, and Octavius did not scruple to take over Sardinia and the fleet which Pompey's admiral Menodorus treacherously handed over to him. War broke out as a matter of course, and it was not till 36 B.C. that the great victory of Agrippa at Naulochus crushed the power of Pompey. The same year saw the overthrow of Lepidus, who had assisted Octavius against Pompey and had occupied Lilyboeum and Messana. He was foolish enough to claim Sicily for himself; but his troops deserted, and he was forced to submit to Octavius. His province passed to Octavius, and though he was allowed to keep to the end of his life the office of chief Pontiff he was banished to Circeii.

The struggle against Pompey gave the occasion for the last meeting of Antony and Octavius. The latter had sent to Antony for help; but then conceiving a distrust of his designs closed the harbour of Brundisium against him and compelled him to land at Tarentum. A quarrel seemed imminent, but the efforts of Maecenas and Octavia averted it, and the treaty of Tarentum (37 B.C.) restored peace; the arrangement for the continuance of the Triumvirate, if not already made in 39 B.C. was made now; Antony gave up a hundred ships for

Fall of
Pom
and

Treaty of
Tarentum.

the war against Pompey, and Octavius twenty thousand men for the Parthian war; and all the provisions of the treaty of Misenum in favour of Sextus Pompey were cancelled.

Govern-
ment of
Octavius.

The ground was now cleared for the final struggle; Antony was the ruler of the East; Octavius of the West, and while the latter was conciliating the people, safeguarding the provinces, and working hard at the strengthening of the frontiers, Antony was alienating and disgusting every one by his proceedings in the East. Octavius' wisdom in electing always to remain in close contact with Rome was now bearing fruit. He was regarded as the organiser of orderly government; he and his great lieutenants became familiar to the people of Rome. After the terrible struggle of late years a quiet and peaceful form of government was all that the majority of the people in Italy looked for; the constitutional question was allowed to drop. Republican sympathies still largely predominated; but a renewal of the struggle in the Republican cause was no longer to be apprehended. From the end of the Perusine war Octavius returned to the methods of Julius, and dissociated himself permanently from the revengeful proceedings that had marked the early years of his power. Several points of interest as foreshadowing his future arrangements appear in this period. The Senate which had done little else for some years than pass decrees of thanks and congratulation to the chiefs of the State, and impose taxes at their bidding, was constituted by Octavius a criminal court for the trial of his lieutenant, Salvidienus Bassus, on a charge of treachery after the treaty of Brundisium. The future bureaucracy, the cabinet system, which directed the policy of Rome under the Empire, was foreshadowed by the position of Maecenas, who, though holding no magistracy, negotiated all diplomatic business and directed all affairs in Rome during the Sicilian war. The successful issue of this war too did much to strengthen the hold of Octavius on the affections of the people; the ever-present fear of famine had been removed. In gratitude for this they conferred on him the Tribunician power; and when in the Senate on his return he definitely announced that after the termination of the Parthian war he would endeavour to

induce Antony to lay down his Triumviral power and join with him in restoring the old Republic, hopes were raised of a partial restoration of the old active political life of Rome. This promise meant little of course ; but it marks the beginning of the policy which Octavius always followed from this time forward ; he endeavoured to produce the impression that he regarded his supreme power as extraordinary and temporary. In every direction Octavius had gained friends and strengthened his position ; the frontiers on the North were extended and strengthened under his own personal supervision ; peace and order reigned throughout Italy ; the comfort and convenience of the city received its share of attention at the hands of Agrippa, who was Aedile in 33 B.C. ; all this and the absence of corruption in the government marked out Octavius as the ideal ruler who worked for the good of his people, and his tactful promise to hand back his power to the people when his work was done, meaningless though it was, kept their minds free from the apprehension of a renewal of Cæsar's absolutism.

Meanwhile Antony was pursuing a very different career. Antony in After returning from Tarentum he had finally repudiated the East. Octavia, and thrown himself at the feet of Cleopatra. His Parthian operations of 36 B.C. were a failure, and from that time he played at Alexandria the part of an Eastern king with Cleopatra for his consort. Under her influence he proceeded to all kinds of folly. In 34 B.C. he made an expedition against the king of Armenia, whom he took in chains to Alexandria, and Rome was disgusted with the news that the capital of Egypt had been allowed to witness the triumph of a Roman general. Nor were the suspicions, widely entertained in Rome, to the effect that Antony meditated setting up in Alexandria a rival kingdom altogether unfounded. Few things could have occurred more significant in the eyes of the average Roman than the celebration of the peculiarly Roman triumph, associated from the earliest days with the Via Sacra and the gods of the Capitol, in a city which had been intended by its founder to be the centre of Greek civilisation in the East. Moreover Egypt was not a Roman province but a dependent kingdom, with the administration of

which Antony had legally no right to interfere; yet he acted like a king of Egypt, and all his policy in the East seemed to tend to the extension of Egyptian and not Roman influence. It was from the capital of this kingdom that Antony managed the Roman provinces of the East, appointed his favourites as kings and queens of Roman provinces, and even went so far as to recognise Cæsarion, the illegitimate son of Cæsar and Cleopatra, as Cæsar's rightful heir, and appoint him king of Syria under the proud title of 'king of kings.' Nothing was omitted that could tend to the glorification of Cleopatra, and humiliate and alienate the sympathies of the Romans. Thus it came about that Octavius was regarded as the champion of Rome and Italy against the dangerous extension of the new Empire in the East.

The final
struggle.

The time of collision was now close at hand; the division of the Empire into East and West had had consequences dimly if at all foreseen. The struggle was to be not merely a contest between two rival Roman generals, but between the civilisation and methods of the East and West. Antony had passed into the ordinary type of the absolute Eastern sultan; Octavius, though in fact hardly less absolute, still upheld the old Roman traditions of government. In the time that had elapsed since the treaty of Tarentum the rivals had been busily engaged; hence Antony had raised no objection to the absorption by Octavius of all Lepidus' share in the government, and Octavius had submitted quietly to the insult offered to his sister Octavia. But the year 33 B.C. found them both with free hands; Antony had no longer the Parthian war to engage him; Octavius had finished his Illyrian campaign. Only the pretext for war was still wanting. As early as the summer of 33 B.C. Antony crossed to Greece, but frittered away his time, and nothing decisive occurred. Then began a series of desertions; the proceedings of Antony had alienated from him many of his first lieutenants; among them were Asinius Pollio and Plancus, both of whom went over to Octavius, taking with them the terms of Antony's will, which they gave to Octavius, and the publication of which roused the greatest indignation at Rome. Antony retaliated by openly repudiating Octavia, and then tried to gain popularity at Rome by

announcing his intention of resigning the extraordinary power he held as Triumvir. This came too late; for Octavius had already secured the passing of a decree depriving Antony of his Triumviral power and also of the Consulate of 31 B.C. which it had been agreed should be held by him. In 32 B.C. the two Consuls were of Antony's party; they did their best to gain favour for Antony by calumniating Octavius; but the position of Octavius was too strong. War was declared nominally against Cleopatra, and the two Consuls had to take refuge with their master. It would seem that on the deposition of Antony Octavius also laid down his Triumviral power, and was invested with some extraordinary power to carry on the war.¹ That it was more than a simple military command is quite certain, for he used during the following years powers as wide as those conferred on him by the Triumvirate.

Octavius found himself by no means as well prepared for the war as Antony, who had collected an enormous naval force with the lavish assistance of the Egyptian treasury. Antony's old vigour had been unable to survive the years of luxury spent in the purple of an Eastern ruler, and though he advanced as far as Corcyra intending to swoop down on the Italian coast, he retired and surrendered all the advantage conferred on him by his overpowering naval forces. By the following year Octavius' preparations were complete, and the mastery of the Roman world was finally decided at Actium in 31 B.C. There remained little more for Octavius to do; but he did not at once return to Rome. He spent some time in Greece, and in the beginning of the year 30 B.C. an outbreak among the veterans at Brundisium necessitated his return for a short time to Italy. He then proceeded to the East; the last effort of Antony at resistance was crushed; Egypt was annexed to the Roman Empire; the East was regulated and organised, and early in 29 B.C. the undisputed master of the Roman world returned to Rome.

¹ See p. 409.

CHAPTER XVII

THE PRINCIPATE

Restoration of
Peace.

BY the year 29 B.C. Octavius' work in the East was done and the Roman world had peace ; for only the third time in the history of the city the temple of Janus was closed, and the heir of the deified Julius returned to celebrate his triumph in Rome. The conduct of Antony had assured to Octavius the sympathies of all Italy, and he was now regarded, not as the selfish victor in a civil war playing for his own hand, but as the true champion of Rome and the defender of the liberties of Italy. And henceforth he showed himself worthy of his position. There was no return to the proscriptions and confiscations that had signalised his first rise to power. Unscrupulous as he was in attaining his aims, he had no sooner gained the position he sought than he abandoned all the traditional methods of Roman civil strife, and like his great predecessor used his power for the good of all. The veterans were rewarded and settled in Italy, but the lands for the purpose were acquired by purchase ; a veil was drawn over the struggles of the past years, and all alike, the descendants of Sulla's proscribed enemies, friends of Pompey, and supporters of Antony were admitted to an equal share in the offices and privileges of Rome. A general amnesty was scrupulously observed, and the new era of good and orderly government was fitly inaugurated by the interment of all the disturbing memories of the past.

Octavius
and the
Republic.

It was clear now that the time had come for formulating a definite scheme of government. Octavius was virtually the absolute master of the Roman world, and yet the Republican constitution remained in theory unimpaired. Julius had found himself face to face with the same problem ; but he had not time to solve it before his death. It remained for the young

conqueror to attempt the task for which his nature eminently fitted him. He had none of the brilliant qualities of Julius; but he was clear-sighted and tactful, painstaking in works of detail and blessed with common sense almost amounting to genius. The elder Cæsar had a hatred for shams that had led him to parade his absolutism in all its nakedness and to trample on the Republican sympathies of Rome that had their root in the history of 500 years. The new ruler could not fail to see the rock on which Julius had made shipwreck; his whole career had taught him the value of timely compromise, and the fate of Julius showed him the advantage of respecting the prejudices of his people. He had worked from the first with the definite aim of succeeding his uncle as ruler of the Roman world; he had no intention of allowing the real power to slip through his fingers when once he had firmly grasped it. He intended to be as fully the absolute master of Rome as Julius; but he conceived the plan of reconciling his own supremacy with the outward form of a Republic, and carefully maintaining the old institutions of Republican Rome. The task was not unworthy of his abilities; but one thing had made it easier than it would have been twenty years before. The power of Cæsar followed too closely on the political activity of the Republic; by the time of Octavius the people of Italy had seen the futility of hoping for a restoration of the old incompetent government by a Senate and Comitia. To be permanent the Republic must at least be protected by a citizen in a position of authority. It only needed an observance of Republican forms to ensure the acceptance of the new regime, and this concession to Roman sentiment Octavius was prepared to make. To the lesson taught him by the fate of Julius, Rome owed the form, of the Principate.

But Octavius did not at once formulate the new government; Pre-
he no doubt had his ultimate plan for associating the Senate ^{liminary}
with himself in the government already formed, and he turned ^{measures.}
his attention to the necessary work of making the Senate fit
to fill the position he intended it to hold. In the year 30 B.C.
a Lex Saenia had been passed empowering Octavius to recruit
the diminished ranks of the Patricians by admitting new families

as Julius had done. This work he carried out in 29 B.C., and in 28 B.C. in conjunction with Agrippa he undertook a census of the people and the purging of the Senate. In direct contrast with the policy of Cæsar who had humiliated the Senate, increased its numbers and admitted provincials and sons of freedmen, Octavius showed the intention of restoring to a certain extent its lost dignity and removing unworthy members. Over two hundred of the Senators were expelled; and to avoid any danger of opposition in the provinces from members who were still unreconciled to the new rule, Senators were forbidden to go into the provinces without express permission from Octavius himself.

Constitutional
position of
Octavius
33-27 B.C.

The constitutional position of Octavius at this time is by no means certain.¹ It was not till January 27 B.C. that he laid down his extraordinary powers and gave its first form to the new government. The Triumvirate with its extraordinary and constitutive powers had been conferred on him first in 43 B.C.; the period of five years had been extended certainly till the end of 33 B.C. Whether the arrangement had been originally intended to continue beyond this date is not known; Octavius himself says definitely that he held the Triumvirate for ten consecutive years, and therefore he clearly regarded himself as having given up the Triumvirate at the end of 33 B.C. It is commonly assumed that the Triumviral power was in his case unconstitutionally prolonged till the year 27 B.C., and it is certain that the extensive powers used by Octavius during those years were practically the same as the powers he had wielded as Triumvir, in virtue of which he settled provinces, issued edicts with the force of laws, and acted as supreme master of Rome. During the whole of this time, except for the year 32 B.C., he was Consul; but the Consular Imperium did not carry with it powers of such extent, and it is hardly conceivable that Octavius at the very time when he was carefully posing as the champion of constitutional procedure would have overstepped the carefully defined limits of the well-known Consular Imperium, or given any handle to adverse criticism by illegally prolonging the Triumviral powers. It is intrinsically probable that, at the moment

¹ See Herzog, ii. 130 *sqq.*

when the struggle with Antony was imminent, he laid down the Triumviral power of which Antony was expressly deprived, and which the previous operations of the coalition had done so much to bring into disrepute. That he did not continue to hold the Triumvirate till 27 B.C. seems quite clear from the fact recorded in Tacitus that in his sixth Consulship (28 B.C.) he abolished the arrangements made by him as Triumvir.¹ Octavius' own words do nothing to clear up the question;² it almost seems as if he were purposely vague in dealing with this part of his career, for the 'general assent of the Romans' may mean anything but can hardly be taken as a satisfactory definition of his constitutional position. On the whole the most reasonable conclusion seems to be that sometime in 33 B.C., or early in 32 B.C., after the expiry of the second five years of the Triumvirate, a law was carried investing him with certain special powers of a quasi-dictatorial kind, practically the same as the powers conferred by the Triumvirate, and that this law of which nothing is known formed the legal basis of his acts between 33 B.C. and 27 B.C.

The taking of the census and purging of the Senate, in concert with Agrippa, in 28 B.C., have given rise to scarcely less discussion. Suetonius says that this was undertaken in virtue of a perpetual 'Morum Regimen,' or Censorial power, conferred on him. This is directly contradicted by the Monumentum Ancyranum where Octavius expressly says that this power was offered to him and refused. There remain two possible explanations; either the Consulate now held by Octavius was regarded as embracing all the original powers of the supreme magistracy including the Censorial functions; or the power of performing the Censor's duties (*Censoria potestas*) was among the extraordinary powers conferred on him by the unknown law to which he seems to refer when vaguely speaking of his position as resting on the common consent of the people. The objection to the latter is that

¹ Tac. Ann. iii. 28 *Sexto consulatu quae triumviralis iusserat aboluit.*

² Mon. Ancy. 6. 13. *In consulatu sexto et septimo (28 and 27), bella ubi ciuilia extinxeram, per consensum uniuersorum potitus rerum omnium, rempublicam ex mea potestate in senatus populique Romani arbitrium transtuli.*

such a law is nowhere mentioned, and that his own language is so exceedingly vague; but this objection would invalidate the extension of the Triumvirate for the second five years which we know to have taken place though no account of the law is preserved. As regards the former conjecture it is unlikely that Octavius with his strict adherence to Republican forms would have used the Consulship as a basis for such a work when the conferment, if only temporary, of *Censoria Potestas* would have been so easy. Probability points to the fact that either *Censoria Potestas* was among the special powers conferred on him in 33 B.C. or 32 B.C., or else that he and Agrippa were specially invested with it for this occasion.

Decree of
28 B. C.

Beside some general regulations for the benefit of trade, the better administration of justice and the purification of the old state religion by the abolition of certain new foreign cults, Octavius made this year memorable by the general decree in which he cancelled all 'illegal proceedings of the Triumvirate.' A decree couched in these terms of course had no great practical value, and it is impossible to say how far it went. Doubtless it was meant simply to produce a good impression and to mark the advent of an orderly and established form of government. It was in fact the preliminary step to the resignation of the following year.

The arrangement
of 27 B.C.

On January 13th 27 B.C., Octavius in the Senate formally restored the Republic and handed back the government to the Senate and the Roman people. He laid down all the extraordinary powers, that he had used since 33 B.C. whether based on the Triumvirate or the more vague *Consensus Universorum*, including the wide *Proconsular Imperium* on which his extensive powers in the provinces had been founded. The Consulate for 27 B.C. he retained, and with it the *Tribunicia Potestas* conferred on him in 36 B.C. Three days later the Principate really began. The Senate met and conferred on Cæsar the title of 'Augustus,' a name which at once raised him in dignity high above the level of the ordinary citizen and the Republican magistrate; the door of his house on the Palatine was adorned with laurels and the Civic crown, and a golden shield was placed in the Senate House that

Julius Cæsar had built, whereon was an inscription announcing that this was a reward offered to him by the Senate and the Roman people for his valour and loyalty, his moderation and sense of justice. But this, while clearly marking the personal ascendancy of the ruler, was not enough in itself. Had the Government been left in this position the Republic would indeed have been restored, and above everything the control of the armies and provinces, now that Augustus had given up the extensive powers in virtue of which he had for so long been the head of the Roman forces, would have been again vested in the Senate. Such a violent change was by no means part of Augustus' policy. The problem he had set himself to solve was to remodel the government in such a way that his own power should be as absolute and all-embracing as that of Julius Cæsar had been, and yet the outward show of a Republic should be preserved. No extraordinary power was to be flaunted before the eyes of the Romans; the Dictatorship had been finally abolished; the name 'King' was surrounded by the traditional hatred of centuries; the Roman people must be educated gradually to recognise the advantages of a personal rule. It was in accord with this policy that Augustus, doubtless at his own suggestion, received back at the hands of the Senate and the Roman people the Proconsular Imperium for a period of ten years. This assured to him the supreme control of the Roman armies and fleets and general power of supervision over the provinces; and it was in the provincial arrangements now made in connection with this assumption of Proconsular power that he first showed clearly the design of making the Senate his nominal partner in the government of the Roman Empire. In order to assure to himself the effective control of the legions and to prevent the possibility of a rival making good his position at the head of an army in the outlying parts of the Empire, Augustus laid down the principle that all the unsettled or border provinces for whose security the presence of the legions was necessary should be assigned to him as Proconsul, while the provinces nearer Italy where peace was already assured should be left to the Senate to be governed by annually appointed magistrates as before, but without

troops; even over these provinces he reserved to himself a general right of supervision.

Nature of
the Settlement.

Such was the basis of the settlement of 27 B.C. It seems clear that the vital constituent of the Imperial power was the wide Proconsular Imperium, extending over the whole Empire outside the limits of Italy, and assuring to its holder the supreme command of the Roman armies. But this Imperium was purely military, and though his province was so wide he was legally only on the same footing as the ordinary Proconsuls; it could not be used in Rome or Italy, and was in theory inferior to the Consulare Imperium which was defined as *Maius*. To ensure his position in law as well as in fact Augustus conceived the idea of uniting the chief magistracy with this Proconsular power, and holding the Consulship each year. Thus the three elements in the Imperial power under the settlement of 27 B.C. were the Proconsular Imperium for ten years, an annual Consulship, and the *Tribunicia Potestas*, which had belonged to him since 36 B.C.

Such was the scheme by which Augustus at the same time assured his own supremacy and could pose in the eyes of the Romans as the restorer of the Republic, a second Romulus. Everything was scrupulously arranged in such a way as to throw dust into the eyes of those who did not wish to see, and while the Romans themselves cheered the new founder of Rome and voted him titles and honours utterly incompatible with a Republican constitution, the provincials, who had no sentimental interests to serve in blinding themselves to the true facts of the case, recognised in Augustus the absolute Emperor of the Roman world. Political theorists had indeed some ground for their statement that the Republic had been restored, for legally the powers of Augustus were little more than those conferred on Pompey by the Gabinian Law. The Proconsular Imperium was, it is true, extraordinary; but it had been conferred before, while the Republic was still a living fact, and the fixed period of ten years, coupled with Augustus' promise to lay it down even before the expiry of the term if the pacification of the provinces was completed, tended at any rate to save appearances. The accumulation of Proconsular, Consular and

Tribunician powers had no parallel except in the case of Julius Cæsar; but they were all strictly Republican and collegiate powers; Augustus' Consulship depended formally on his election in the assembly, and even then he was coupled with a colleague who was in theory his equal; while the Tribunician power was held equally by the ten annually-elected Tribunes of the Plebs. In no point then did Augustus stand theoretically above his colleagues in the Republican magistracies, and he could say with some truth that during the years 27 B.C. to 23 B.C. it was only in prestige¹ that he stood above all the Romans; as far as legal power went he was no more than the equal of his colleagues in the magistracies. It was indeed this 'dignitas' that marked the actual disappearance of the Republic at the very moment that its restoration was being celebrated. The Republican magistracies, assemblies and Senate came into existence once again; the doctrine of a government avowedly based on the possession of force like that of the Triumvirs was disavowed and an orderly system evolved; but however cleverly the real aspect of the case might be cloaked, however scrupulously the new regime might be wrapped in Republican forms by a master of statecraft, it was clear that the powers concentrated in the hands of Augustus and backed by his prestige made him master of the Roman world. The master of the legions, the restorer of peace to Rome, the heir and successor of the great Cæsar, the son of the 'divine Julius,' the proud bearer of a title that in itself assigned to him a more than human dignity, might evolve on paper a regenerated Republic, but the sovereignty of the Roman people was at an end.

It remained only to find a definite name for the man who was at once the ruler of the State and its chief servant. Here again Augustus showed his characteristic unwillingness to offend Republican sympathies. The word *Rex* would have been no whit too strong for the powers he possessed; but he preferred to take a perfectly colourless title, one that was associated with no unpleasant memories and had no direct constitutional import. Such a title was found in the

The title
'Princeps.'

¹ Mon. Ancyr. xviii. 6. ἀξιώματι πάντων διηγεργα ἐξουσίας δὲ οὐδὲν πλεόνειχον τῶν συναρξάντων μοι.

word 'Princeps.' The exact meaning of this term has been much disputed. It was formerly held that 'Princeps' stood for 'Princeps Senatus,' an honour conferred on him in 28 B.C.; that this title 'Princeps Noster' was probably first applied to him in the Senate House and then came to be universally used to designate the ruler of Rome. The prevailing view is that the term has no connection with Princeps Senatus, but merely represents 'Princeps Civitatis,' the chief citizen of Rome, a term applied to both Caesar and Pompey in Cicero's letters. Such a term met all the requirements of the case; it had no definite significance; its very vagueness was its chief recommendation; it denoted a general supremacy resting on that very prestige to which Augustus himself so pointedly refers.

Recon-
struction of
the Princi-
pate.

After the arrangement of 27 B.C. Augustus proceeded to the Western provinces, Gaul and Spain; during his absence (27-24 B.C.) Agrippa, though it would seem he held no office, was left to superintend the affairs of Rome. In 23 B.C. Augustus had a serious illness, and was at once confronted with the difficulties that lay in the way of providing for a successor in the Principate. On his recovery the immediate necessity of such a step disappeared; but the crisis through which he had just passed had shown the weakness of his position. The advantage of maintaining in all its details the appearance of a Republican constitution grew less as time went on, and there were several features in the existing arrangement that were capable of alteration and amendment. According to the division of power in 27 B.C. the provinces were in immediate dependence on him in virtue of his extraordinary Proconsular Imperium. Such was not the case with Italy and Rome, with which the Proconsular Imperium had no concern; he ruled Italy in theory as Consul, that is, in the position of an ordinary Republican magistrate with a colleague of legally equal power. Augustus' aim was further to strengthen his position as the head of the State by freeing himself from the trammels of a collegiate magistracy and yet to avoid introducing any strictly new feature into the old system. This might have been partly achieved by accepting a life Consulship, but Augustus was very scrupulous in avoiding anything

that might lessen or impair the traditional position of the Consul as the head of the State; the Consulship was to remain in appearance the chief magistracy of Rome and not be merged in the Principate. Yet some Republican office had to be found which would give him a civil position in Rome, which would enable him to convoke the people, submit legislative proposals, interfere in administration and the like. In these circumstances he turned to the Tribunician power which he had held since 36 B.C. and decided to give it a more prominent place among the constituent elements of the Principate than it had hitherto had. Up to the year 23 B.C. the Tribunician power had not even been mentioned in official inscriptions; but henceforth it takes an important place among the Emperor's titles, and the conferment of Tribunicia Potestas was the most marked step by which subsequent Emperors indicated their choice of successors. In token of this change and of the increased importance he intended to attach to the Tribunicia Potestas, Augustus not only continued to hold it for life, but, in order to conform to the Republican system, he was to receive it afresh each year by the fiction of annual election; and in selecting this office to replace the annual Consulate, Augustus was perhaps influenced by the reflection that it was in its origin a democratic and popular office, and had throughout the whole of Rome's history been identified with the cause of the people. Augustus thus got rid of the fetters of a collegiate magistracy; he had no one of legally equal rank beside him; for though invested with Tribunician power he was not a Tribune; he had all the powers of veto and initiative which belonged to them, but was not strictly a member of the college; and this arrangement by which he possessed pre-eminently the Tribunicia Potestas and avoided being merely one of the college, served to mark out the more clearly his position as above and apart from the ordinary magistrates, while yet introducing no new and striking feature into the old régime.

But the extra prominence given to the Tribunician power could not alone compensate for all he had lost by laying down the Consulate. Of course he retained the Proconsular Imperium which now as always was the vital ingredient in

the Imperial power ; but the Consular Imperium was 'main it took precedence over all others ; and the Proconsul Imperium was not applicable to Rome and Italy. From 223 B.C. he had in virtue of the Consulate had *Maius Imperium* over all the provincial governors ; this he had now laid down and thus was legally on exactly the same footing as the ordinary Proconsul. It remained to make the Proconsul Imperium specially applicable to home as well as foreign government, and to bring the whole of the Roman world into exactly the same close relation to the ruler that the provinces alone had held before. For this purpose a number of special enactments were passed defining the Proconsular Imperium, and giving to the Emperor a number of special privileges incompatible with the old conception of a Proconsul. Exactly what powers were conferred by this means we cannot say ; it is probable that a number of successive enactments were passed in this case, and that they were subsequently embodied in a single law, the *Lex de Imperio*, later called the *Lex Regia*, which was passed at once in the case of subsequent Emperors. Among the powers thus conferred were those of summoning the Senate to precedence in making a motion, and the right of making peace, war, and treaties ; his Proconsular power was defined as *Maius*, and it received an entirely fresh significance in its extension to Italy and Rome, in token whereof the Emperor was allowed, as Proconsul, to be accompanied in Rome and Italy by twelve lictors carrying the fasces.

Other powers and honours were subsequently conferred on Augustus. He received the *Jus Edicendi*, the power of publishing magisterial edicts,¹ and a seat between the two Consuls ; the title of *Pater Patriae* was given him in 2 B.C. Ten years before this, on the death of Lepidus, he was chosen as *Pontifex Maximus*, and was also enrolled in all the priestly colleges. He was not Censor, nor had he regular Censorial power, for this would have made the constitution of the Senate directly dependent on him, and he aimed always at preserving in appearance the independence of the Senate, but he did assume Censorial power or

This belonged to every Roman magistrate.

occasions (*e.g.* in 8 B.C. alone, and in 14 A.D. with Tiberius), and twice after 23 B.C. he held the Consulship; but these were all exceptions, and after 23 B.C. the form of the Principate was fixed. It derived its power from the Proconsular Imperium, the Tribunicia Potestas and the laws conferring the special powers mentioned above.

In 23 B.C. the Principate took its final form. Augustus had many chances of adding to his powers, but always refused them. In the famine of 20 B.C., the Senate and people offered him the Dictatorship; but he was satisfied with taking over the temporary 'Cura Annonae.' The Consulship was repeatedly offered him, and three times he refused the general 'Cura legum et morum.' His power remained on exactly the same basis; he maintained the fiction of the temporary nature of his Proconsular Imperium by having it renewed in 18 B.C. for five years, for five more in 13 B.C. and 8 B.C., and then again for ten years in 3 B.C. and 8 A.D. With the same object he transferred to the Senate in 22 B.C. two of his own provinces, Gallia Narbonensis, and Cyprus.

In strict theory the Princeps was 'only one Magistrate the more.' Such powers as he had he held in virtue of the delegation of the people, not by reason of any special right of his own; that is to say, he theoretically held his position as the chosen of the sovereign people. He differed from the ordinary magistrate in that he held office continuously like the early kings, and like them therefore he could never be prosecuted for any official acts. The special honours conferred on him, and the peculiar position he held in Rome made this equality with the Magistrates a farce from the very beginning; even the division of the provinces with the Senate was merely a formal concession to the old Republican council. When Augustus left Rome for the Eastern provinces in 22 B.C., he went first to the Senatorial provinces of Sicily, Greece and Asia, where he effected whatever reorganisation he pleased in virtue of his superior Proconsulare Imperium, his general right of supervision. His supremacy in Rome was shown by what happened during his absence; election riots broke out, and the measures adopted by the ordinary magistrates were not sufficiently

Position
of the
Princeps.

prompt, whereupon Augustus sent Agrippa back from Asia to undertake the supreme management of Rome until his return. Agrippa stayed there till the year 20 B.C.; in the following year similar riots broke out; on this occasion Augustus himself directly named a second Consul (for the Consul already elected was unwilling to undertake the work of restoring order) and hastened back to Rome. It is clear from these two examples how little in practice was the power of the magistrates beside that of Augustus. In both these cases he seems to have acted in virtue of the wide power conferred on him by one of the enactments of 23 B.C., which seem in general terms to have given him discretionary powers in all emergencies.

Insignia
of the
Princes.

Nor was the Imperial pre-eminence without its outward and visible signs. The Princeps was allowed to wear the gold-broidered Triumphal robe, but only on festivals—a right which had previously been granted to Pompey. The purple-edged robe of the magistrate he could always wear, as well as the general's purple cloak (the *paludamentum*) which had hitherto been worn only by generals in the field. The Eastern diadem was not introduced till the time of Constantine, the early emperors being satisfied with the laurel wreath. He used the '*sella curulis*,' was followed by twelve lictors, and had all the other marks which belonged to the highest magistrates; beside this he was accompanied by a body-guard quite distinct from the Praetorians. Anxious though Augustus was to pose as a citizen among equals, the old Republican traditions were frequently disregarded. It had been illegal for any statue of a living man to be set up in Rome; statues of Augustus were common. Moreover the Eastern custom of stamping the ruler's head on the coinage, which Julius Cæsar had introduced from the East, and which had been adopted by the Triumvirs, was maintained under the Emperors.¹

The Court. Lifted as the Emperor was in so many ways above the

¹ Officially the Emperor's title in 14 A.D. appeared as follows:—*Imperator Cæsar Divi Filius Augustus Pontifex Maximus Consul xiii, Imperator xx, Tribunicia Potestate xxxvii, Pater Patriæ.* (Prof. Bury, '*Student's Roman Empire*,' p. 20, note).

ordinary level, the new order of things naturally had a great social influence. The formation of a regular Court was only a matter of time. From the first the leading men in Rome held their positions rather as the recipients of Augustus' favour than as the holders of magistracies. It was as Augustus' trusted friend that Mæcenas was so prominent in the eyes of Rome. In such circumstances it was inevitable that the patronage of Augustus should be keenly sought, and that the friendship of Cæsar should be the greatest prize of a noble and ambitious Roman. Hence the 'Amici Cæsaris' came to hold a position of distinction in the eyes of their fellow-citizens. They formed the inner circle who visited the Princeps every morning in the old Republican fashion; they sat at his table, and joined with him in the patronage of literature which formed so prominent a feature of the Augustan era. In later times the term Amici Cæsaris was more formal, and a definite list was drawn up of all who were entitled to this honour.

But apart from all political and social pre-eminence, the Princeps was marked out by the conferment of certain quasi-divine honours. Julius Cæsar had been deified after his death, and the same honour lay in store for the Princeps unless he had scandalised his generation by particularly abominable conduct, and the attitude of his successor made it safe for the Senate to refuse the honour. Even Claudius was enrolled among the gods; but in Nero's case the revolt which led to his death enabled the Senate to show their detestation of his life by condemning him to exclusion from the company of the deities. This claim to consecration was one of the most distinctive features of the Empire. The usual method of procedure was a form of trial of the deceased ruler in the Senate; if for any reason he was condemned, his statues were thrown down, and his memory loaded with infamy.

Consecra-
tion and
Divine
honours.

Even during his life the Emperor possessed more than mortal dignity. Emperor-worship gradually extended; but Augustus in accordance with his usual policy of appearing as a citizen and magistrate tried to keep it out of view in Rome. In the provinces where there was nothing to be gained

by maintaining this fiction of equality, and where Emperor-worship was calculated rather to assure the stability of the throne by enhancing its dignity, it was tolerated and even encouraged. It is not correct, however, to regard this as an innovation of Imperial times. The provincials, the Greeks and Asiatics in particular, had been in the habit of erecting shrines to eminent Roman generals and governors for many years. We read in Plutarch of a temple of Flamininus which existed till quite late times.

Succession
to the
Principate.

It has been already remarked that the Princeps was formally a magistrate receiving his powers at the hands of the people. He held power for life, but after his death the post was vacant; he had no right of appointing a successor. The theory that the king never dies did not apply to the Roman Principate. In fact on the death of a Princeps it lay theoretically with the Senate to determine whether another Princeps should be elected or not, and some such debate did occur on the death of Gaius. When the candidate for the throne was adopted, it remained to confer on him the various powers that went to make up the Principate; first, the Proconsulare Imperium was given, not by the people, it should be noted, but by the Senate as representing the people, and at the same time the new ruler received the title 'Augustus.' The day on which this was conferred was called the 'Dies Imperii,' and this power being the most important, the new reign was regarded as beginning then, though the Emperor dated the years of his rule from the conferment of the Tribunicia Potestas, which took place some days later since it was given by the people, and the formal interval of the *Trinum Nundinum* was observed between the promulgation and passing of the bill. Finally the *Lex de Imperio*, or *Lex Regia*, was passed, conferring all the special powers not involved in the Proconsular and Tribunician powers.

Augustus had owed much of his early success to the distinction of his position as Cæsar's heir. It would not be too much to say that Augustus had succeeded to the throne as Cæsar's heir. He had seen the value of a family connexion with the *de facto* ruler; he intended beyond

all doubt to found a dynasty. It only remained to find some means of securing the succession of his heir or nominee, seeing that the constitution of the Principate recognised no right of nominating a successor.

This problem first confronted Augustus during his serious illness of 23 B.C. He had no son, and only one daughter, Julia, by his second wife Scribonia. His third wife Livia brought him two step-sons, Drusus and Tiberius, for whom he had little affection. His nearest male relative was Marcellus, the son of his sister Octavia, born in 43 B.C. This young man was regarded with the greatest favour not only by Augustus but by the Roman people. In 25 B.C. he married him to Julia in the hope of thus getting a successor in the direct line. Everything was done to raise the prestige of Marcellus, who was allowed to be Consul in 23 B.C., though ten years under the legal age. There seems little doubt that Augustus had it in his mind to secure the succession for Marcellus or his sons; to this end he intended to raise Marcellus in time to an exalted position in Rome; in fact, to place him beside himself as a sort of consort, not of course on the same footing as himself, but still possessed of such powers that in the event of a vacancy occurring for the Principate, the nominee of the Emperor would by reason of the extensive powers in his hands have a practical if not legal claim to the succession.

Augustus' plans however were hindered by his illness in 23 B.C. Marcellus was a young untried man; Agrippa was^{pl} a vigorous and able statesman, who had represented his Imperial master in Rome during his absence, and who was generally regarded as second only to Augustus himself. In this crisis Augustus to his credit placed the good of his country above his dynastic plans, and by giving his signet ring to Agrippa clearly showed his own preference for Agrippa's claims. The recovery of Augustus caused a reversion to his former plans, and the jealousy between Agrippa and Marcellus became so acute that Agrippa was sent on an honourable mission to the East, and to soothe his disappointment he received from the Senate at the Emperor's suggestion the Proconsular power. But in 22 B.C.

Marcellus died, and Augustus had to form a fresh plan. Early in 21 B.C. he married Julia to Agrippa, thus bringing Agrippa directly into his family circle and furthering his dynastic plans. After his return from the East in 19 B.C. Augustus had his own Proconsular Imperium renewed for five years in 18 B.C., and at the same time Agrippa, who had administered the government in Augustus' absence, was raised one step higher by the conferment of Tribunicia Potestas for five years. The exact definition of the Proconsular and Tribunician power thus conferred on the Imperial consort we do not know; it may be taken for granted that certain limitations were imposed whereby any possible infringement on the similar Imperial powers was prevented.

This second plan of Augustus seemed likely to be crowned with success. There were two sons by this marriage and in 17 B.C. Augustus adopted them both; it was now generally recognised that Gaius and Lucius Cæsar were marked out to be the public and private heirs of Augustus and their father Agrippa was to be their guardian. For this purpose Agrippa's powers were maintained—his Tribunicia Potestas was renewed for another five years in 13 B.C., but in the following year he died. The place of guardian to the two young Cæsars was now filled by Tiberius, the stepson of Augustus, who was married to Agrippa's widow in 11 B.C.; but he was not invested with the powers that had been given to Agrippa. Augustus' dynastic plans were rendered the easier by the distinctive honours that began to be bestowed on all members of the Imperial House. In spite of his formal recognition of equality within the Republic the same tendencies that helped to form the first beginning of the Imperial Court marked off the family of the Emperor from the rest of the State. Donatives were given in the names not only of Augustus himself but of other members of his family; public buildings and porticoes bore the name of Gaius and Lucius, of Livia and Octavia. Both within and without the Royal family it was abundantly clear that the grandsons of Augustus were marked out for favour, while his stepsons to whose military ability Rome owed so much were to hold the second place. Of the latter

Drusus died in 9 B.C., and in 6 B.C. Augustus recognised the valuable services of Tiberius (who had received Proconsular power three years before) and emphasised his position as guardian of the young Cæsars by at last getting conferred on him the Tribunicia Potestas for five years. Tiberius however had looked forward to being adopted; his position with regard to the young Cæsars was irksome, and he withdrew into private life in the island of Rhodes. But once more Augustus' plans were doomed to failure; in 2 A.D. Lucius Cæsar died, and his brother two years later. On the death of Lucius, Tiberius had been allowed to return from his self-imposed exile, and in June 4 A.D. he was adopted by Augustus and reinvested with Tribunicia Potestas. This course was forced on Augustus much against his will, for in spite of Tiberius' eminent abilities and his services to Rome, Augustus always regarded him with marked disfavour. Unwilling to concede too much at once to a man whom he so little liked Augustus simultaneously adopted Agrippa Postumus, a third son of Agrippa and Julia, who soon showed such a disposition that his claim to serious consideration was out of the question and he was sent away from Rome. Tiberius too was ordered to adopt Germanicus, a son of his brother Drusus. He was thus not entirely free from rivals; but his services on the Northern frontier were so splendid during the next few years that his succession was placed beyond a doubt and in 13 A.D. he received Tribunicia Potestas for life, and by a Consular law was granted Proconsular power over the whole Empire co-ordinate with that of Augustus.

Thus the death of Augustus, though it left the Principate vacant, left a very strong candidate before the Senate. There could indeed be no doubt as to the succession, though the amiable farce of a free election and a reluctant acceptance of such high responsibility was played conscientiously by the Senate and Tiberius. The new claimant to the throne held the supreme command of the army in virtue of his Proconsular power, and thus any attempt to hinder his succession must have failed before the power of the sword; for Tiberius' Proconsular Imperium did not lapse with the death of Augustus inasmuch as it had been conferred not by direct

Third
plan.

Augustus'
successor.

delegation from the Emperor but by a law duly passed by the people or by the Senate. It is clear then that the system originated by Augustus of appointing a consort by securing successively the conferment of Proconsular and Tribunician power virtually amounted to the nomination of a successor, and that the choice of the Senate could only have any real existence when the Emperor was driven out by a rebellion or died without making any arrangement for prolonging his dynasty, and even in such cases it soon become abundantly manifest that the choice of the Senate must be regulated by the will of the army.

CHAPTER XVIII

THE PRINCEPS AND THE GOVERNMENT

AUGUSTUS as a Roman magistrate always regarded himself as coming under the laws and took every year the formal oath of office and obedience to the laws. The basis of his civil powers after 23 B.C. was the *Tribunicia Potestas*. In virtue of this he had the general right of veto, which he often employed to annul *Senatus Consulta* instead of forbidding the Senate to discuss the matter at all; by this means he maintained a greater show of Senatorial independence than his successors who exercised a general supervision over the work of the Senate. Further Augustus had the usual '*Jus Coercitionis*,' and '*Auxilii*,' and of course was regarded as *Sacrosanct*. Lastly, as the representative of the Plebs he had the usual right of summoning and initiating legislation before the *Plebis Concilia*, and it is noteworthy that most of Augustus' reforms were carried through as *Plebiscita*.

Under the Republic the Government was in practice regarded as a partnership of the Senate and people. Diplomatic messages were sent to '*Senatus Populusque Romanus*,' and official acts were undertaken in their name. The balance of power varied from time to time. In the period of Senatorial ascendancy the Senate had usurped all the practical power in the State; then came the period of the Reformers when at times the Senate was reduced to a mere nullity and the doctrine of the sovereignty of the *Populus* assembled in the *Comitia* was pushed to the utmost limits. Generally speaking the sovereignty of the people, the right to make laws, was always maintained, for the Senate never had any real legislative power; but the actual administration of the State was left to the Senate and the magistrates to whom the people delegated their power.

Augustus
as a magis-
trate.

The Re-
publican
Constitu-
tion.

There were then three important elements under the Republic: (1) the *Populus*; (2) the Magistrates; (3) the Senate. It remains to see what was their position in face of the new magisterial power that had now been introduced.

The
Populus
under the
Empire.

The *Comitia* had for many generations ceased to be in any sense representative of the Roman *Populus*. This was the inevitable result of the wide extension of the citizenship and the maintenance of the system of a city-state long after the Roman Empire had outgrown that form of government. The absurdity of allowing a gathering of a few thousand citizens, mostly drawn from the ranks of the idle city mob, to make laws in the name of Rome was sufficiently glaring; but the idea of the sovereignty of the *Populus* lay at the very bottom of the Roman constitution, and the only check that could have been imposed was the revival of the old *Patrum Auctoritas* or some similar right of revision vested in the Senate; and so utterly corrupt was public life at Rome during the last century of the Republic that the remedy would probably have been worse than the disease. The vital danger to the Republic lay in the legal sovereignty of these assemblies always ready to be bought by the highest bidder or overawed by the army of an ambitious general. Naturally now that the army was in entire dependence on the Emperor there was no fear of this popular sovereignty being turned in any way to account against him; it was perfectly harmless as long as it was a form, and its formal preservation helped to maintain the fiction that Augustus so strenuously upheld. But all the actual power of the people rapidly disappeared.

Legislative
powers of
the Popu-
lus.

The business of the *Comitia* had been Legislative, Electoral and Judicial; they had seldom interfered in administration except at times of strong anti-Senatorial agitation, such as the time of Gaius Gracchus, when every department of State business was managed by the Democratic leader by means of *Comitial* laws. The legislative powers of the assembly formally remained, and Augustus passed many of his laws as *Plebiscita*; but the assembly gradually lost this function, and Legislation passed into the hands of the Emperor and Senate. So entirely did they lose this power that after the time of Tiberius, with the exception of the law

conferring *Tribunicia Potestas* which was always passed by the people, there is only one instance of a law passed in the old way, an Agrarian law of Nerva.

In the matter of elections their power was left untouched, Electoral so that Augustus could boast that 'he had restored the powers. ancient rights of the Assemblies.'¹ But in practice of course his influence was very strongly felt. Under the Republic candidates had to tender their names to the president of the *Comitia* who then examined their qualifications. This was called '*Pro-fessio*,' and from 27 B.C. to 23 B.C., Augustus being Consul, the *pro-fessio* at the *Comitia Centuriata* was made to him. When he laid down the Consulship in 23 B.C. he seems to have retained this privilege, and a kind of preliminary '*Pro-fessio*' was made to the Emperor as if he were still the Consul presiding over the elections; theoretically this was not obligatory for the candidates, nor had the acceptance² of a name by Augustus any result; but in practice the names accepted by the Emperor, and placed on a list drawn up by him, were assured of success. This list contained the names of those eligible for *all* the various offices for which the elections were about to be held. Another privilege of a somewhat similar kind was enjoyed by the Emperor, the right of '*Commen-datatio*' or '*Suffragatio*,' that is of specially recommending, in the former case by edict or letter, in the latter by word of mouth, special names for special offices from the list of those whom he had already declared as eligible for office. It is clear that with these privileges the Emperor had virtual control of the *Comitia*, if he liked to use his rights to the full. Augustus himself behaved with moderation, and both he and Tiberius adhered to the principle that there should be no '*Commendatio Principis*' for the Consulate. The majority of the magistracies were of so little practical importance that it was not worth the Emperor's while to interfere to a very great extent, and under the early rulers the '*Candidati Cæsaris*' did not monopolise the magistracies. In course of time this remnant of independence was destroyed, and the elections to all magistracies except the Consulate (with which

¹ Suet. Aug. 40. *Comitiorum pristinum ius reduxit.*

² To this was given the name *Nominatio*.

the early Emperors interfered as little as possible) were transferred to the Senate. Moreover the importance of the electoral powers of the Comitia sank to zero with the lessened importance of the magistrates they elected. In times of emergency (*e.g.* in 19 B.C.) Augustus seems to have had the power to nominate even a Consul without any show of election at all.

Judicial
powers.

The judicial powers of the Comitia had long ago practically disappeared before the newer and much extended system of Quaestiones Perpetuae. It had been revived by way of a protest in the case of Rabirius in 63 B.C., but the assembly was utterly unfit for judicial as for any other serious work, and their judicial powers were finally abolished by Augustus.

Other
powers.

The remaining powers of the Republican assemblies, the decision on questions of peace and war, the conferment of special commands, the gift of the Roman citizenship, etc., all disappeared. The conferment of Proconsular Imperium went to the Senate, and most of the others were delegated to Augustus by the special Lex de Imperio. Finally, all distinctions between the assemblies seem to have vanished.¹

The Ma-
gistracies.

The old Republican magistracies all continued to exist with the exception of the Censorship,² and the reason for its disappearance was that the Emperor desired to emphasise the independence of the Senate. Thus whenever a Censor was deemed necessary the Emperor himself assumed Censorial power (*e.g.* in 8 B.C. and 14 A.D.), though on neither occasion did he undertake his work as a Censor. Later rulers were less scrupulous of mere form, and Claudius, Vitellius and Vespasian all held the Censorship with extended powers. Domitian got the title Censor Perpetuus, and from this time the Censorship disappeared altogether, all its functions passing to the Emperor.

Ordo
Honorum.

Under Augustus the 'Ordo Honorum' was strictly observed. This order was (1) Quaestorship; (2) Aedileship or Tribune; (3) Praetorship; (4) Consulship. The magistracies were re-

¹ We can speak of 'an assembly' under Augustus, but whether it was Comitia Centuriata or Tributa there is nothing to show.

² For a full discussion of the various Magistracies see Willems, 'Le Droit Public Romain.'

garded as preliminary training for the Senate and a useful occupation for Senators. Thus the qualifications for the Quaestorship were the possession of the Senatorial Census (1,000,000 sesterces), one year's service as Military Tribune, the holding of a place in the Vigintivirate, and a minimum age of twenty-five years. To hold the Praetorship a Plebeian must have held the Aedileship or Tribunate and a Patrician must have been Quaestor, an interval of at least one year being necessary; the minimum age for this office was thirty. An interval of at least two full years was necessary between the Praetorship and Consulship.

(1) *Consuls*.—The dignity of the Consulship was carefully Consuls, maintained in the early years of the Empire. Under Augustus and in the first half of Tiberius' reign Consuls holding office for the whole year are frequently met with. But the practice was early introduced, and rapidly became more common, of dividing the year into two halves and electing a different pair of Consuls for each half, the first college being called 'Consules Ordinarii,' and the subsequent colleges 'Consules Suffecti.' Later the periods of office were limited to four and even three months. The Consulship was still the highest office in the State, and was theoretically in no subordination to the Emperor, who was in dignity only on a footing of equality with them, and had no right of interference; but in fact they lost all their administrative powers, and were entirely dependent on the Emperor. They presided in the Comitia as before; but their chief duty was the presidency of the Senate; naturally, too, they were the presidents of the Senate in its new work as a criminal court. Moreover they appeared to have had a certain jurisdiction in civil cases by delegation of the Senate. With the loss of all practical political power they received certain new duties, such as the organisation of most of the public games instituted at the beginning of the Empire, the chief of which were those on the anniversary of Actium and the Emperor's birthday.

(2) *Praetors*.—The number of Praetors under Augustus Praetors, varied. Originally it was ten and was increased to twelve. This number was kept by Tiberius, but under the later rulers it was raised to fourteen, sixteen, and finally eighteen. Their

duties were for the most part judicial ; but two of them, first appointed in 23 B.C., were entrusted with the supervision of the Aerarium, and were called *Praetores Aerarii*. When Augustus divided up the city for municipal purposes, the fourteen regions were placed under the presidency of prefects chosen from among the Praetors, Tribunes, and Aediles. The functions of the various Praetors were settled annually by lot. In 22 B.C. Augustus transferred the management of the *Ludi Publici* from the Aediles to them.

Aediles.

(3) *Aediles*.—The number of Aediles remained six, two Curule and two Plebeian Aediles, and the two Aediles Cerales first appointed under Julius Cæsar. Under the Imperial organisation they lost the wide powers they had previously held, the *Cura Annonae*, *Cura Ludorum*, and *Cura Urbis*, retaining the less important functions such as the police of the games and public funerals, and receiving the presidency of some of the new regions of the city. Their judicial powers in virtue of which they passed fines on all who committed offences coming under their jurisdiction remained unimpaired till 36 A.D., when they were considerably reduced.

Tribunes.

(4) *Tribunes*.—These magistrates retained in theory their full *Jus Auxilii* and *Jus Intercessionis*, except against the Emperor, to whose veto they were subject and on whose *Tribunicia Potestas* they were entirely dependent. With the disappearance of active political life in Rome the Tribunes lost all real importance, and even their judicial functions were restricted simultaneously with those of the Aediles in 36 A.D. Like the Aediles they became presidents of some of the new city regions.

Quaestors.

(5) *Quaestors*.—The normal number under the Emperors was reduced from forty to twenty. Of these four were attached to the Consuls (*Quaestores Consulium*), two to the Emperor (*Quaestores Cæsaris*). They were assistants in a general way to the Consuls and Emperor, especially in all matters connected with the Senate; besides these there were still the two *Quaestores Urbani*, and two Quaestors stationed in Italy, one at Ostia, the other at Ariminum. The remaining ten were attached to the governors of the Sena-

torial provinces. The number of Quaestors was reduced to eighteen in 44 A.D. by Claudius, who abolished the Italian Quaestors and gave back to the Quaestores Urbani the care of the Aerarium which had been transferred by Augustus to the two Praetors. But in 56 A.D. the arrangement of Augustus was restored.

(6) *Vigintiviri*.—The smaller standing commissions were united under one name by Augustus, and called the ‘*Vigintiviri*.’ The total was made up of the ‘*Tresviri Capitaes*,’ who carried out sentences of capital punishment, ‘*Decemviri stlitibus iudicandis*,’ ‘*Tresviri monetales*’ (or ‘*triviri aeri argento auro flando feriundo*’), and the ‘*Quattuorviri viis in urbe purgandis*.’ For a post on any of these boards the Senatorial Census was necessary, and this service was a necessary prelude to holding the Quaestorship, so that the *Vigintivirate* was really the preliminary step in the *Cursus honorum*.

Of the three elements in the Roman constitution the Senate alone held a position of any importance under the Empire. From the very first Augustus had shown his intention of undoing the work of Julius Cæsar in this respect, and of raising the influence of the Senate. On his return to Rome he had in 29 B.C. or 28 B.C. purged the Senate of all unworthy members, and reduced its membership to six hundred, which remained the normal number. The principle of Sulla was adopted, by which office was made the basis of membership, and ex-Quaestors became at once members of the Senate. The Senatorial census was fixed definitely at 1,000,000 sesterces. An ‘*Album Senatorium*’ was annually drawn up, divided into classes of various rank according to the offices they had held, *Consulares*, *Praetorii* and the like. The Senate was thus automatically filled by those who had been elected Quaestors in the *Comitia*; but in fact the Emperor’s influence on the constitution of the Senate was very considerable. He could on occasions, as Augustus did, assume the Censorial power, and the right of ‘*Adlectio*’ was always recognised as belonging to him. By the exercise of this he could enrol in the Senate one who had not held the Quaestorship, and could assign him to any rank he pleased in the Senate. Julius Cæsar had first used this right, and in virtue

of it admitted non-Senators even to the highest rank in the Senate (*adlectio inter Consulares*); Augustus and his successor, who carefully avoided anything that could lessen the dignity of the Consulate, never enrolled non-Senators among the Consulars. Augustus had still another way of influencing the composition of the Senate. Not only did he enrol men of Senatorial Census who had not held the qualifying office, but he could also confer on young Equites who had not the qualification for the Vigintivirate (*i.e.* the Senatorial Census) the '*Latus clavus*,' the broad purple stripe which belonged only to those with the Senatorial qualification, and thus qualify them for a Magisterial and Senatorial career. The Senatorial dignity was conferred for life, but could be lost by a condemnation in the courts involving penal consequences, by exclusion by the Emperor holding Censorial power, or by loss of the Senatorial Census.

Emperor
and
Senate.

Augustus not only held the '*Jus Agendi cum patribus*' by virtue of his *Tribunicia Potestas*, but also had it conferred on him by a special *Lex*. In this matter the custom of the Republic was still maintained, and all the chief magistrates (*Consuls, Praetors, and Tribunes*) possessed the right as well, the Emperor of course taking precedence. Moreover Augustus received the *Jus Primae Relationis*, in virtue of which any motion made by him took precedence over all other business; this was extended, and the Emperor was allowed not only to make '*relationes*' in person, but to send them in the form of a letter or dispatch in which case they were read by the *Quaestor*, who acted as the Emperor's intermediary in his dealings with the Senate. Originally this privilege was supposed to be enjoyed by the Emperor only in case of his absence from Rome, and Augustus, careful of the dignity of the Senate, carefully observed the limitation. But as the Monarchy became more open and avowed, and the Senate sank from the position of partner to that of servant of the Emperor, the practice of sending written '*relationes*' to the Senate became the rule.

Altered
position of
the Senate.

The position of the Senate underwent a great change with the introduction of the Empire. Under the Republic it had been a deliberative Council assisting the executive magistrates

in the administration of the Senate, and by virtue of its strong position it had at times, when assured of the loyal support of the magistrates, practically monopolised the chief branches of the administration. Under the Empire its administrative powers either disappeared or were shared with the Emperor, and instead it became a judicial, legislative and electoral body, all of which functions were practically new to it.

Under the Republic the most important departments in which the Senate was supreme were the Military, Provincial, and Financial Administration.¹ The army now became entirely dependent on the Emperor, and the Senate ceased to have any dealings with the organisation of the armies and fleets of Rome. The Emperor alone could levy and disband troops, appoint and transfer commanders, and issue orders to the governors at the head of the legions. At the same time the power of declaring war and peace, and making treaties, passed from the Senate and Comitia to the Emperor alone, together with the whole direction of foreign affairs. Embassies came now to the Emperor, not to the Senate, though in quite unimportant cases the Senate might be allowed the empty privilege of receiving them.

In Provincial administration there was a partnership between the Emperor and Senate;² but it was by no means an equal one even at first, and the change that gradually came about emphasized the superiority of the predominant partner, e.g. Illyricum, which was left to the Senate in 27 B.C., was in 10 B.C. divided into two Imperial provinces; and all the new provinces were immediately placed directly under the Emperor's control. Moreover the Emperor could always interfere in the Senatorial provinces by virtue of his *Maius Imperium*, while the Senate had no *locus standi* in the Imperial provinces, and were only concerned in them at all in so far as the governors of them were always men of Senatorial rank.

Again in the department of Finance, which had hitherto been exclusively the care of the Senate, we find the partnership prominent. The old 'Aerarium Saturni' continued to exist, and was placed by Augustus under the supervision of

¹ See p. 226.

² See p. 462.

two Praetors. From this were defrayed the expenses connected with those branches of administration left to the Senate, *e.g.* public worship, festivals, roads, etc., and into it were paid the revenues of the Senatorial provinces.¹ Side by side with this now existed the Imperial treasury, 'Fiscus,' from which the Emperor defrayed all his military and provincial expenses. In theory these two treasuries were quite distinct and independent; but here again the equality did not last, and the 'Fiscus' was constantly encroaching on the 'Aerarium.' The coinage which had been entirely in the hands of the Senate was also shared, and both Emperor and Senate in 27 B.C. had the right of coining gold and silver; but after 15 B.C., when copper was reintroduced, the Emperor took the sole privilege of coining gold and silver and left copper² to the Senate.

Adminis-
tration
of Rome
and Italy.

Two departments of the Senatorial administration were at first untouched—the general management of Rome and Italy, and the superintendence of the State religion. These were never openly taken out of the hands of the Senate; but there was a continual interference by the Emperor, especially towards the end of his reign, when he had his hands free from the burdensome work of reorganising the provinces, *e.g.* in 22 B.C. during a time of famine, when the Senatorial administration was an utter failure, he at their request took over the 'Cura Annonae,' and on the recurrence of famine in 6 A.D. he appointed a permanent Curator Annonae appointed by and responsible to himself. Similar offices were created by reason of the incompetence of the Senate were the Curator Aquarum, and Curatores Viarum for all Italy. The failure too of the Senate and Aediles in the ordinary municipal work in Rome led to the institution of the Cohortes Vigilum.

Thus much of the old administrative work was taken from the hands of the Senate; the remainder was shared with the Emperor who gradually encroached in every sphere.

¹ See p. 451.

² This was taken from the Senate by Nero. It was important because the face value of the copper coins was largely in excess of the actual value of the metal used. This coinage was the most valuable perquisite of the Senate.

Of the new functions of the Senate the most notable were the Legislative and Judicial. Under Augustus the Senate was not an electoral body, but this power passed to them under Tiberius. The influence of the Emperor on the elections has already been explained, and it is clear that when the elections became a chief part of the Senate's work the predominance of the Emperor was complete. New functions of the Senate.

In the work of Legislation the Senate had no real share under the Republic. In Legislation. In one matter alone could they in any way interfere with the laws, and that was in granting to a magistrate in special circumstances a dispensation from the operation of the laws (*legibus solvere*), a power which they retained under Augustus so fully that the Emperor himself, posing strictly as a magistrate and swearing obedience to the laws, had to resort to them for such dispensation. Under the Republican constitution the sovereign people alone could pass a law binding on the whole people, and from the time when the last Patrician check on popular legislation was abolished this fundamental point in the constitution had never been lost sight of. When Augustus formulated the Principate the power of the people in this respect was maintained, and many laws were passed as *Plebiscita* on the motion of Augustus himself. But it would seem that the *Imperium* was in the first instance conferred on Augustus not by the *Comitia* but by the Senate, and this practice gradually extended to other legislative acts. At first the consent of the people was necessary to turn a *Senatus-consult* into a Law; soon it came to be a form, and was then omitted altogether, and *Senatus Consulta* acquired generally the force of laws. Thus the Senate became, at any rate from the time of Tiberius, the real legislative power in Rome, and it was in virtue of this power that they voted consecration to the memory of a departed Emperor, and confirmed or rescinded his '*acta*.' The Emperor naturally had the right of initiating legislation in the Senate, and that body seldom moved in any important legislative matters without an intimation from the Emperor. Augustus frequently found his *Tribunician* power useful to veto *Senatus Consulta*; but his successors claimed the right of approving

every measure before it went to them. Other magistrates had equal rights of initiating legislation, but we can well believe that it was very sparingly used.

'Leges
Datae.'

Thus the legislative activity of the Senate depended very largely on the Emperor. As a magistrate he had of course no more power to make laws than any other Tribune or Consul; but this difficulty was evaded and certain prerogatives which amounted to legislative power belonged to him. Under the Republic the phrase 'Leges Datae' was used to denote bodies of law drawn up at Rome by the Praetor on the request of the people (sometimes needing ratification by the assembly and sometimes not), or codes of law drawn up by Provincial governors and others¹ (e.g. *Leges Rupiliae* for Sicily), or generally laws made by any magistrate 'Cum Imperio' (e.g. Sulla, &c.) in virtue of delegation by the people, in opposition to laws passed directly by the people (*leges rogatae*). This right 'dare leges' passed into the Emperor's hands, and such 'leges datae' were issued dealing with many different matters, e.g. the conferment of the citizenship, or bestowal of Latin rights on provincial towns, and the municipal organisation of the colonies and municipia. Moreover the Emperor exercised legislative power by certain indirect means, e.g. by interpretation of the law, to which jurists have given the term 'Constitutio Principis,'² such interpretation always carrying the force of law. The interpretation might be conveyed either in a 'Decretum,' a judicial sentence of the Emperor, or in a 'Rescriptum' (also called *Epistola*), a written answer given by the Emperor on a definite point, in both of which cases the decision had the force of law in all analogous cases that might afterwards arise; or lastly in the 'Edictum,' a general ordinance (like the Praetor's edict) issued by the Emperor to all citizens and foreign subjects of the Empire. In all these cases the legislative activity of the Emperor was concerned rather with changes of the law by way of fresh interpretation than with marked innovations; for great legislative changes were generally made by means of *Senatus Consulta*. According to the terms of the *Lex de Imperio* all 'acta' of the Emperor were valid, but they ceased to have force on his

¹ Liv. ix. 20.

² Gaius.

death unless confirmed by the Senate. A noteworthy case was the *Rescissio* of all Nero's 'acta' after his death.

Another great innovation of Augustus was the conferment of Judicial power on the Senate. The Senate had had no judicial functions under the Republic. The criminal jurisdiction was now definitely taken from the *Comitia*; the *Quaestiones Perpetuae* continued to exist as the ordinary criminal courts; but side by side with these was introduced extraordinary jurisdiction (*cognitio*) of the Senate and Emperor. Both the Senate and the Emperor had general criminal jurisdiction, but usually only important political cases, or cases in which a citizen of high position was implicated, went before the Senate. In all cases where the Senate constituted a criminal court, it was under the presidency of the Consul. Augustus himself adopted the principle, first founded by Julius Cæsar, of bringing to his own bar any criminal case he pleased; or he could delegate his judicial powers.

It is clear from this sketch of the Senate under Augustus that the theory of the Imperial rule depended on the partnership between the Emperor and the Senate. For this reason the early Empire has been called a 'Dyarchy,' or dual government, and this term really expresses the formal nature of the constitution. Just as in Republican times the Government of Rome lay with the Senate and the Roman people, so under Augustus the Government was in the hands of the Princeps and the Senate. But the term Dyarchy no more represents the actual state of the Government than did the formula '*Senatus Populusque Romanus*' during the ascendancy of the Senate. For many years Republican Rome was virtually in the hands of the Senate, and the *populus* was passive; the sovereign power was still in theory the *populus*, but the practical power all lay with the Emperor, and the history of the Roman constitution from Augustus to Vespasian is merely a gradual change from formal Dyarchy to Monarchy, as the Senate came more and more under the always encroaching power of the Emperor.

In military affairs, foreign relations, questions of peace, war and treaties, the Emperor was supreme; in Provincial, Financial, and Judicial administration, and in Legislation, the partnership is clearly discernible. The management of Italy and Rome originally left to the Senate was gradually lost to it. On paper the partnership does not look very unequal, and it was the aim of Augustus that it should not do so; but in every department the superiority of the Emperor was assured by his powers of control over the Senate, *e.g.* his influence on its constitution, his *Tribunicia Potestas* and unlimited right of veto, and his personal prestige.

The
Cabinet.

In his relations with the Senate, there is one other noteworthy innovation of Augustus. In 27 B.C. he instituted the practice of forming a permanent committee of Senators comprising the two Consuls, one member of every other magisterial college, and fifteen Senators drawn by lot and holding their place for six months.¹ This body, like the modern Cabinet, had no legal place in the constitution; but Augustus instituted it for the preliminary deliberation of all important matters which he wished to bring before the Senate. In 12 A.D., when Augustus' health was failing this idea was extended, and a Council consisting of the Consuls, the Consuls elect, the princes of the Imperial family, twenty Senators named for a year, and those whom the Emperor might select for each sitting, used to meet at the Emperor's house, and pass decrees which were regarded as *Senatus Consulta* and were legally valid.

The
Equites.

One important order in the State was entirely reorganised and reconstituted by Augustus, the *Ordo Equester* or Equites. The term *Equester Ordo* had come to be purely political. The Equites formed a numerous body containing all who had the required census of 400,000 sesterces. The term had ceased to have any military significance, and the Equites were merely a large and wealthy class of great political influence, whose chief public function was their service in the Jury Courts. More important than this however was their financial activity; they formed the great financial

¹ 'Semestria Consilia.'

² For Equites under the Republic, see p. 252 *sqq.*

syndicates, the 'publicani,' who took up the State Contracts for farming the taxes. The 'Equites Equo Publico' still continued to exist, consisting of the old eighteen centuries; but the position was a purely honorary one, from which Senators were excluded, though from the time of Sulla sons of Senators had had a claim to admission by right of birth.

Under Augustus, the indirect collection of the provincial taxes through 'publicani' was abandoned, and thus the 'publicani' lost much of their importance. The Equites¹ in the wide sense of the term were abolished, and the name was again officially restricted to 'Equites Equo Publico.' They were intended to be again a military body, and as such were of course regarded as peculiarly dependent on the holder of the supreme Imperium. Of their previous functions the service on the Juries was alone retained; but with the abolition of the old provincial system, and the disappearance of all party politics in Rome, the long continued hostility of Equites and Senators ceased to exist.

The new Equester Ordo depended for its constitution entirely on Augustus, for the 'Census equitum' was separated from the Censorial duties and was regarded as a regular duty of the Emperor. The qualifications for admission were a census of 400,000 sesterces and free birth, though libertini could be enrolled by conferment of fictitious 'ingenuitas' by the Emperor. It rested with the Emperor to confer the Equus Publicus; it could be taken away by him, but was generally held for life, and only forfeited by the loss of the necessary property qualification, by entry to the Senate, or by the acceptance of the post of Centurion in a legion. The annual review (transvectio Equitum) was restored, and on this occasion Augustus, assisted by a small commission of Senators, exercised his 'Recognitio.' The organisation of the Equites was purely military; they numbered in all about 5000, and were divided into six 'turmae' commanded by 'Seviri Equitum Romanorum.'

¹ The terms Equester Ordo and Eques were still loosely applied to all who had property = 400,000 H.S., *i.e.* the first class in the old Centuriate assembly.

One of Augustus' chief aims was to create a body of efficient and reliable officers, and military service in one of the posts specially reserved for Equites was made obligatory as a preliminary step in their career. These 'Militiae Equestres' were the Praefectura Cohortis and Alae, command of an auxiliary cohort of infantry or squadron of cavalry, and Tribunatus Militum, the military Tribuneship in a legion; the former of which were reserved exclusively for Equites. In virtue of their peculiar dependence as an Ordo on the Emperor the Equites not unnaturally came to be employed in a number of State offices that stood in close relationship to the Emperor himself. Such were the posts of financial superintendents (procuratores), and administrative officials nominated by the Emperor (such as the praefectus annonae). Besides these, all military posts (such as the praefecturae classis, vigilum, and praetorio), except those of the Legati legionis, which were always given to Senators, and the governorships of all new provinces of inferior rank, such as Noricum, were allotted to Equites.

The Equites and the Senate formed the two 'ordines' of Rome. For the most part the spheres of operation for each of them were clearly marked out; the Equestrian career from the subordinate posts in the army to one of the great State offices, and the Magisterial and Senatorial career were kept quite distinct. The Senator wore the robe with the broad, and the Eques the narrow purple stripe (latus and angustus clavus); the other distinguishing mark of the Eques was the gold ring, the conferment of which by the Emperor was held equivalent to the bestowal of Equestrian rank. It was not unusual for an Eques to receive from the Emperor the insignia of a definite Senatorial rank (ornamenta consularia, praetoria, etc.) or to be actually admitted to the Senate by the exercise of the Emperor's power of adlectio.

The Praefecti. - As the administration of the Empire came to centre more and more in the Emperor's hands, a new class of officials came into existence besides the old magistrates. Unlike these they received their power by direct delegation

from the Emperor for an indefinite time, and, being entirely dependent on him, could be removed or suspended at his pleasure. Of these the most important were the Commander of the Praetorian Guards (*Praefectus Praetorio*)¹, the *Praefectus Urbi*, and the *Praefectus Vigilum*. Each of them had a clearly defined sphere, and worked under the personal supervision of the Emperor himself.

But beside these departments, delegated to the chief members of the Equestrian order, there was a mass of work devolving on the Emperor himself, which was entrusted to a still closer circle of dependents chosen from among the *Libertini* of the Imperial House. As time went on and the centralisation of all affairs in the Emperor's hands became more marked and more widely recognised, the number of letters and petitions addressed to him continually increased, and the routine work alone connected with the Imperial Treasury was naturally enormous. From the first, the Emperor had to make use of his *Libertini* as private secretaries; but it was not till the time of Claudius that the whole staff was organised into three distinct departments (*Scrinia*), 'a *rationibus*,' 'ab *epistulis*,' and 'a *libellis*,' all administered down to the time of Hadrian by Imperial freedmen. The department 'a *rationibus*' was charged with keeping all the accounts of the Treasury.² The department 'ab *epistulis*' was charged generally with the Imperial correspondence, the making out of commissions and rescripts issued in the form of letters, the receiving of despatches from governors and generals, the sending of replies and instructions, all official correspondence with municipalities, foreign embassies and the like. The department 'a *libellis*' had to receive and record all petitions addressed to the Emperor. Another department was the 'a *cognitionibus*,' probably instituted later by Claudius; the official to whom this branch of the service was entrusted was a commissioner of enquiry, charged with investigating and drawing up such reports as the Emperor might need, on any matter connected with the exercise of his civil or criminal jurisdiction.

¹ See p. 472.

² See p. 452.

Growth of
Bureau-
cracy.

The growth of Bureaucracy was a natural outcome of the Imperial constitution. The Emperor and a few trusted servants directed the policy of Rome. They discussed and determined everything of political importance before it went to the Senate for their formal assent. Before Augustus had assumed the Imperial power this new system had shown itself when Mæcenæ, holding no office and merely acting as the representative of his master, shaped by diplomacy the destinies of Rome. Augustus was a strong ruler who could pick his ministers well and use them wisely; and Mæcenæ and Agrippa were servants worthy of their master. Under the rule of the first Emperor the Roman world was governed well, because Augustus kept the reins of power in his own hands, and was above the temptation to which his successors yielded only too readily. The relations of the confidential freedmen to the Emperor were so close, and their knowledge of the most private affairs necessarily so intimate, that they came to exercise an almost limitless influence over a weak and vicious ruler, and so it came about that the honour of Rome and the wealth and lives of its citizens came to depend on the nod of a Pallas or Tigellinus.

It remains to consider in somewhat greater detail the organisation of several of the most important branches of the Government.¹

JUDICIAL ADMINISTRATION.

Judicial
Adminis-
tration.

The 'Quæstiones Perpetuæ' continued to exist, their constitution, procedure, etc., being regulated partly by the laws under which the various Quæstiones had been originally created, and partly by a series of laws passed by Augustus himself. Moreover the jury system which had hitherto been confined to criminal cases was extended to the 'Judicia Legitima,' or civil cases. The number of Jurors placed on the Album Judicum, drawn up by Augustus himself, was 4000. Senators were excluded, and the whole body was divided into four decuries, two being composed of Equites,

¹ For a fuller description of these departments see Willems, 'Le Droit Public Romain.'

one of Tribuni Aerarii, and the fourth (instituted by Augustus to try the less important cases) of Ducenarii, citizens with a census of 200,000 sesterces. Under Augustus the jury lists were drawn up afresh each year, and all details were regulated, such as the number of months during the year for which the jurors could claim exemption.

With the actual procedure of the Quaestiones the Emperor had no real concern, except that he possessed a casting vote, 'Calculus Minervae.' It was a principle in the Roman courts that absolute equality of votes secured a verdict of acquittal. This principle was now slightly extended, and if the accused were condemned by a majority of one, the Emperor could record his vote with the minority and by thus equalising the votes secure acquittal.

From the very first the Quaestiones lost jurisdiction in capital cases; but for the trial of all other criminal offences they continued to exist till the third century A.D.

The jurisdiction of the Senate was quite general; there was no actual definition of the cases they might take up; it seems to have been left more or less a matter of choice to the Senate whether they would hear a case or not.¹ All applications for the acceptance of a charge were addressed to the Consul, who presided at the trial. Just as in early days a trial in the Comitia had been carried on with all the formalities which usually accompanied a law, so in the Senate the verdict was given by *Discessio* following on '*perrogatio sententiarum*,' and was pronounced in the form of a *Senatus Consult.*

There were several points in which the Senatorial Court differed from the Quaestiones. The latter were bound strictly by the laws, the former was not, for it was not only a judicial but a legislative body and could therefore pass a sentence which was itself a precedent. Moreover, they were not bound by the rule which forbade a Quaestio to pass sentence of death, and which restricted their sentence to '*Interdictio aqua et igni*.' The Senate was quite free to impose the death penalty if it pleased.

¹ See p. 437.

In neither case was there strictly any appeal to the Emperor. In the case of Senatorial verdicts, however, the sentence, being embodied in a *Senatus-Consult*, was naturally subject to the Emperor's veto.

Jurisdiction of the Emperor.

The Emperor, like the Senate, had quite unrestricted jurisdiction, and here, as in every other department, he gradually encroached on the work of the Senate, leaving to them, however, for the most part, the investigation of charges against Senators. He rarely tried a case in person, except when the accused was a high official such as a procurator or the like. Moreover he was like the Senate in that he was not bound strictly by the laws.

For drawing up a case the Emperor was aided by the official 'a cognitionibus' after the time of Claudius. Both before and after this time he was always aided by a board of assessors (*Consilium*). They were named by the Emperor himself from among the Senators or Equites, the leading jurists in Rome being specially called on for this service.

Jurisdiction of the Prefects.

The Emperor could delegate his jurisdiction as he pleased; for example he could send a special case to a special Judge, or a whole category of cases to a definite official. From this source came the judicial powers of the various Prefects. The Senate generally delegated to the Consuls the civil cases brought before them by appeal. The *Praefectus Urbi*, who roughly corresponded to the Prefect of the police, received criminal jurisdiction in all cases coming within his sphere; the *Praefectus Vigilum* in all cases connected with the night police; the *Praefectus Annonae* in all cases arising out of the administration of the Corn supply. The two latter, however, were regarded in a sense as subordinates of the *Praefectus Urbi* and all cases of exceptional gravity were handed to him. This official was originally invested by Augustus with jurisdiction over slaves and the lower classes of citizens.¹

The Praetorian Prefect had criminal jurisdiction over all the soldiers stationed in Rome and Italy. Governors of provinces received by special delegation from the Emperor the power of inflicting capital sentence on Roman citizens and

¹ See Tac. Ann. vi. 11.

their province, except Senators, superior officers, and municipal Decurions who had the right of criminal trial at Rome.

In civil jurisdiction the old courts and methods of procedure were for the most part maintained; the 'Decemviri stlitibus judicandis' and 'Centumviri' continued to exist, and the ordinary magistrates, the Praetors, Urbanus and Peregrinus, and the Curule Aediles retained their powers. The jury system was now for the first time extensively applied to civil cases and the juries were filled from the *Album Judicum*. Civil Jurisdiction.

According to the old principle, appeal was not allowed from the sentence of a jury; but in all cases where sentence had been passed by the 'acta' or 'decretum' of a magistrate with judicial power, appeal was possible to the Senate or Emperor who could not only annul the sentence but amend it. The Emperor had in fact unrestricted competence in all 'judicia privata'; he could either try a private case himself or delegate it to a deputy, in which case there was appeal to the Emperor in person from the sentence unless the terms in which the case was delegated expressly excluded it.

The right of appeal known under the Republic by the term 'Jus Provocationis' continued to exist under the Emperor; but 'Provocatio' to the people, or to the Criminal Court supposed to represent the people, in most cases passed into 'Appellatio,' appeal to an individual, that is to the Emperor. Provocatio was an old institution; Cicero¹ indeed tells us that the citizens had right of appeal even under the kings, but this statement is generally rejected, in view of the unanimity with which the other authorities regard the Jus Provocationis as an innovation of the early Republic.² Provocatio.

Under the Republic a regular series of laws on Provocatio began with the law of Valerius Poplicola in 509 B.C., which forbade any Roman magistrate to punish a citizen with death or stripes if he appealed to the assembly; it was only against the sentence and its execution by the magistrate that appeal was allowed, the verdict of the people was always final.

The criminal jurisdiction of the assembly on appeal from the condemned man became criminal jurisdiction in the first

¹ See Cic. de Rep. ii. 31.

² See p. 42.

instance by the law of the Twelve Tables, 'no sentence of death shall be passed except by the Centuriate Comitia.'¹ For many centuries the Comitia Centuriata was the great Criminal Court of Rome, and thus the whole system of criminal jurisdiction arose from the Provocatio. The same principle had also been extended to cases of fines over a certain maximum imposed by Tribunes, in which case the appeal went before the Tribes Assembly.

But in spite of the law of the Twelve Tables other laws of Provocatio became necessary to protect the citizens, and the principle was reaffirmed in a Lex Valeria of 300 B.C. The weak point of these laws lay in the fact that the magistrate who neglected Provocatio suffered nothing more serious than moral 'infamia' until the time of the Leges Porciae (197 B.C.) which imposed a 'gravis poena' for the infliction of capital or corporal punishment without a trial before the assembly. Of course when the criminal jurisdiction of the Assembly disappeared before the Quaestiones Perpetuae, the Jus Provocationis changed into the right of being tried before a Quaestio.

Originally the right of Provocatio was restricted to the city and a radius of one mile round the walls,² and was not applicable under martial law, that is when a Dictator was appointed, or against the sentence of a commander-in-chief. Whether Provocatio was *ever* allowed against the sentence of a Dictator is very doubtful; at any rate it was not granted before 300 B.C. But a still more difficult question is whether the limits of Provocatio were ever enlarged, and the old restriction of one mile abolished so as to allow Provocatio to Roman citizens over the whole extent of Italy and the Provinces. In early times the difficulty was easily surmounted by arresting the accused person and bringing him to Rome, and this seems to have been the course followed in the case of Pleminius.

It has been held that Provocatio was extended to the army and provinces by the law of C. Gracchus or the Porcian law,

¹ 'De capite civis nisi per maximum comitiatum ne ferunto.'

² See Article by A. H. J. Greenidge on Provocatio Militiae in *C. Review*, June 1896, on which the above remarks are based.

i.e. that 'Provocatio Militiae' was established; but the evidence for this is very unsatisfactory, and there is abundant proof that the Roman soldiers were subject to capital and corporal punishment on the sentence of the commanders, though exemption was granted to Latins by the law of the elder Drusus.

With respect to the provinces no evidence can be adduced to show that Roman citizens had any right of appeal to Rome from the sentences of Provincial governors. If there had been any law assuring this right to them we should assuredly find it mentioned in Cicero's speeches against Verres. The unavoidable conclusion seems to be that there was no written law, though there was a very strong unwritten custom which generally restrained the governor from putting to death or flogging a Roman citizen, especially from subjecting him to crucifixion or any of the punishments regarded as peculiarly degrading. The chief reason for this was the preservation of the dignity of the Roman name; the very form of words used shows the difference between the two cases; in the city an appellant said 'Provoco,' I appeal, in the provinces the form of words used was 'Civis Romanus sum,' I appeal to the dignity of the Roman name.

Sometime towards the end of the Republic, possibly under the administration of Julius Cæsar who in all his work did much to raise the provinces to the level of Italy, Provocatio was extended. The first law we know of is the law of Augustus (*Lex Julia de vi publica*)¹ which seems to recognise the existence of the right of appeal from the provinces to the 'populus,' and to substitute for it appeal to the Emperor, merely introducing a sanction, and for the first time ordering the punishment of any magistrate who refused to allow it, just as the *Lex Porcia* had done in early days for Provocatio in the city itself.

Henceforth the terms *Appellatio* and *Provocatio* are used as synonyms. If an appeal was made it naturally went before the *Quaestiones* unless a special request were made for trial

¹ Paulus, '*Lege Julia de vi publica damnatur qui aliqua potestate praeditus ciuem Romanum antea ad populum nunc ad imperatorem appellan-tem necarit necariue iusserit.*'

before the Senate or Emperor, for the later principle according to which the Emperor and his delegates were sole judges on appeal through the whole Empire did not exist under the early Principate. But this provincial appeal was by no means universally respected. Curiously enough the only two cases in which we know for certain that it was exercised were those of St Paul, and the Christians in Bithynia under Trajan. Now in both these cases the offence charged against the accused was of a political nature; in ordinary criminal cases the governors seem to have had full powers even to the extent of crucifying a Roman citizen. At any rate the principle had been laid down that under certain circumstances in the provinces as well as in Rome the citizens of the Empire should not be liable to capital punishment on the order of a magistrate, but should be able to claim a trial in Rome, though under the early rulers there is no evidence for the existence of the universal criminal appeal to the Emperor which afterwards grew up.

With regard to the ordinary criminal jurisdiction in Rome it has been already pointed out that there was no appeal from sentences of the Quaestiones, but that the Emperor could by virtue of his *Intercessio* cancel any *Senatus Consultum* of the Senatorial Court inflicting punishment. Appeals could also be addressed to the Emperor from the verdict of a subordinate to whom he had delegated a case; but the Emperor was not regarded at all as a court of Criminal appeal, and it would seem that such appeals to the Emperor were not appeals to rehear the case but simply to exercise his prerogative of mercy.

THE DEPARTMENT OF FINANCE.¹

Revenue. The chief sources of the REVENUE were:—

1. Revenues of '*ager publicus*.' In Italy very little remained, and this was used for settling veteran colonies, for the Emperor had the sole right of disposing of '*ager publicus*' throughout the Empire, and the revenue of the provincial '*ager publicus*' all went to the Imperial Fiscus.

To this must be added the produce of the Mines (*metalla*),

¹ See Willems, '*Le Droit Public Romain*.'

the money derived from leases of the fisheries and other monopolies, etc.¹

2. The *Portoria* in Italy and the provinces.—The amounts varied, e.g. in Spain they were 2 per cent., in Gaul $2\frac{1}{2}$ per cent.

3. Money derived from the *Provinces*.—The Vectigalia (payments in kind) were everywhere replaced by Stipendia (payments in money). For the first time the Provinces were equitably treated, and, to ensure a fair adjustment of burdens, a census was taken everywhere on the basis of that of Rome, and the contributions fairly regulated according to the resources of the various communities. In such cases the taxes were either 'Tributum Soli,' a tax on the value of land, or 'Tributum Capitis,' a pole tax on such citizens as had no land. All inhabitants whether foreigners or citizens paid these taxes, and immunity belonged only to those communities on which the Jus Italicum had been bestowed.

4. *Indirect Taxes*.—(a). 'Vicesima Manumissionum,' or 5 per cent. on the value of manumitted slaves.

(b). 'Vicesima Hereditatum et Legatorum,' or 5 per cent. on inheritances, or legacies of a certain value.

(c). 'Centesima Rerum Venalium,' or 1 per cent. on the value of goods sold by public auction. In 17 A.D. it was lowered to $\frac{1}{2}$ per cent. by Tiberius, and abolished for Italy by Caligula in 38 A.D.

(d). 'Quina et vicesima Venalium mancipiorum,' or 4 per cent. on the value of slaves sold.

5. *Extraordinary and miscellaneous Receipts*. — Besides those which existed in Republican times² there are to be reckoned property forfeited to the State under the Papia-Poppæan laws, the sums of money which the Italian and provincial towns were forced to present to the Emperor on various occasions, e.g. the Aurum Coronarium, which became a serious burden under the later Emperors.

EXPENDITURE.

1. *General Administration*. — (a). The Imperial system Expenses. introduced a very large expenditure under this head. In

¹ See p. 191.

² See p. 192.

Republican times the expenses had been trivial;¹ but under the Imperial system the cost of the administration was considerable. Fixed salaries were paid to governors and their staff, varying according to their rank, *e.g.* a Proconsul of Consular rank received 1,000,000 sesterces. Moreover all the Imperial officials of Equestrian rank received salaries, *e.g.* the praefects at Rome, the procurators in the provinces, etc. To this must be added the cost of the Imperial schools of gladiators, the expenses of the Court, extraordinary games, etc.

(*b*). *Military Expenses*.—These included the pay and maintenance of the guards in Rome, the two fleets in Italian waters at Misenum and Ravenna, the permanent armies (legiones and auxilia), and the fleets maintained in the provinces; and under the Empire not only the legionaries and centurions, but also the superior officers received a fixed pay. Important items too were the 'praemia militiae' given to veterans, either in the form of a sum of money or a grant of land.

(*c*). *The Imperial Posts* (Cursus publicus).—This system was first organised by Augustus for carrying the official dispatches and conveying persons travelling on State business. On all the main roads relays and hostelrys were maintained, which were originally kept up at the expense of the localities where they were situated. Later, at any rate after the end of the first century A.D., they were charged to the Imperial Treasury.

2. *Expenses for the city*.—(*a*). Public works (*e.g.* Cura aquarum, etc.).

(*b*). Religious celebrations and public games.

(*c*). Cura Annonae, general supervision of the corn supply, including the gratuitous monthly distribution of corn to 200,000 Roman citizens. This was at first entrusted to the Aediles Cereales, but in 22 B.C. was transferred to Praefecti annually appointed by lot from the Senators of praetorian rank. Towards the end of his reign Augustus first appointed a Praefectus Annonae. Moreover the Senate could decree special distributions, and on special occasions (*e.g.* the 'de-

¹ See p. 193.

ductio in forum' of the heir presumptive) the practice grew up of distributing donatives of money, corn, or oil to the Plebs Urbana.

(d). Public instruction. Vespasian first gave a salary to certain public professors of Greek and Latin at Rome.

(e). The Imperial Libraries first founded by Augustus.

3. *Expenses in connection with Italy*.—Under the early Emperors the only important outlay under this heading was for roads and their maintenance.

THE FINANCIAL ADMINISTRATION.

This was one of the departments in which the partnership of the Emperor and Senate was most clearly shown. There were under the Emperor three treasuries, the Aerarium Saturni, the Aerarium Militare, and the Fiscus Cæsaris. Adminis-
tration of
Finance.

1. *Aerarium Saturni*.—This was the Senatorial treasury and originally received most of the Revenue paid into the old Republican treasury, e.g. Portoria, revenues from the Senatorial provinces, etc. It received also the produce of the 4 per cent. tax on sale of slaves, estates forfeited under the Papia Poppæan laws, etc. But the Fiscus was always encroaching, and fresh sources of revenue were being continually transferred, till the Aerarium finally came to be merely the municipal treasury. At the beginning of Augustus' reign the management of it was transferred from the Quaestores Urbani to the Praefecti Aerarii Saturni elected by the Senate from Senators of Praetorian rank, and then from them to two Praetores Urbani in 23 B.C. The Quaestors were reinvested with the administration of it in 44 A.D., and finally in 56 A.D. it passed to two Praefecti Aerarii named by the Emperor, generally for three years.

The control of this treasury rested with the Senate, and as long as it was in the hands of magistrates appointed by the Senate the control was effective; after 56 A.D. the Aerarium Saturni was naturally hardly less dependent on the Emperor than the Fiscus Cæsaris itself. Moreover even at the time when this Treasury was nominally independent of the Emperor he had great influence on it by his powers

of dispensation, *e.g.* the Emperor could, as Tiberius did in the case of Asia, excuse a province from the payment of tribute in case of famine, earthquake, or other misfortune.

2. *Aerarium Militare*.—This was a special chest established by Augustus in 6 A.D. for the payment of *Praemia Militaria*. Into this were paid the proceeds of the tax on public sale and the succession duty. It was administered in the name of the Emperor by three ‘*praefecti aerarii militaris*’ appointed originally by lot and later by the Emperor among Senators of Praetorian rank for three years.

3. *Fiscus Caesaris*.—The word ‘*Fiscus*’ was first used in the familiar sense by Seneca. It must be carefully distinguished from the ‘*Res Privata Caesaris*,’ the Emperor’s private estate which he was not compelled to use for State purposes. It received the proceeds of the *Ager Publicus* in the provinces, legacies to the Emperor and ‘*Aurum Coronarium*,’ the revenues of the Imperial provinces, certain special taxes from the Senatorial provinces, and finally almost all the sums originally paid into the *Aerarium Saturni*.

From this treasury were paid all military expenses, all administrative expenses of the Imperial provinces, and the salaries of all Imperial officials. It was administered under Augustus and the early Emperors by a freedman of the Emperor, the official ‘*a Rationibus*.’

The most expensive departments of the State were supported by this Imperial Treasury, especially after many of the chief sources of expenditure in the home affairs (*e.g.* *Cornu Aeronae*, *Aquarum*, etc.) were transferred to the Emperor. In fact there was a standing deficit on the *Fiscus*, which the Emperor was able to make good by drawing on his private resources (the chief of which was formed by the revenues of Egypt) and also by appropriating sums from the *Aerarium*.

It would seem that in the early years of the Empire at any rate there was a definite Budget. In fact it was indispensable, for the *Fiscus* was elaborately organised and carefully superintended.

In the early years of the Empire, though the system of middlemen was abandoned for the chief provincial revenue

the *Tributum Soli* and *Tributum Capitis*, it was retained for the greater part of the indirect taxes mentioned above, *e.g.* the *portoria*, *Vicesima hereditatum*, etc., which were generally sold to the *publicani* for periods of five years. But these companies of financiers were not left entirely uncontrolled as had been the custom under the Republic. *Procuratores*, financial officials, were appointed in certain defined districts to control the collection of a definite source of revenue, *e.g.* we read of '*Procurator vicesimae hereditatum*,' '*Procuratores quadragesimae (i.e. the portoria) Galliarum*.' The Tribute was levied directly by the *Procuratores Augusti*, of whom there was generally one appointed for each province, Senatorial or Imperial; in the Imperial provinces this system obtained probably from the first; in the Senatorial provinces the sums were levied by the Senatorial governors and the *Procurator* had only a general right of supervision; but from the time of Tiberius the collection of the Revenue lay entirely in his hands.

In all cases, whether of Senatorial or Imperial provinces, the right of raising or lowering the Tribute, of granting exemptions, or remitting debts belonged to the Emperor alone.

As to the coinage a partition was made in 15 B.C. which was broken up by Nero, who deprived the Senate of the right of coining copper. The Senatorial issues were coined under the superintendence of the *Tresviri Monetales*, controlled however by an Imperial officer called '*Exactor auri argenti aeris*.' The Imperial coinage was minted by Imperial slaves and freedmen (*officinares*), under the supreme superintendence of the official '*a Rationibus*.'

Before proceeding to discuss the arrangements made by Augustus for the administration of Rome and Italy, it is necessary to notice some of the religious and social reforms so closely connected with the home administration of Italy. In religion as in everything else Augustus posed as the champion of purely Roman traditions. During the years of

Religious
and Social
Measur

Civil war everything had fallen into confusion; strange foreign gods had taken their places by the side of the old Italian and Roman gods. In the matter of worship the Romans had never been exclusive; at an early date the Greek gods had invaded Rome, and had been identified by one with the old deities of Italy; Venus and Aphrodite, Jupiter and Zeus, Mercury and Hermes, Hercules and Heracles with all their differing attributes had become synonymous, and in later times still the Egyptian gods, Isis and Osiris, came to Rome with all the inevitable accompaniment of Chaldean necromancy and astrology, and though their temples were forbidden or destroyed within the walls, the new deities settled in the suburbs and were held in high honour among the lower orders. It was to the old Italian gods that Augustus turned his attention, to Jupiter, Mars, the Lares, and the like. He tells us that he restored no less than eighty-two of these shrines in the city. But on to the old worship was grafted the new cult of the Emperor himself; the religion of Rome was henceforth to be one of the props of the Imperial throne. Julius Cæsar had his temple in the forum, and the grand temple built to Apollo, who had a shrine at Actium, in commemoration of Octavius' great victory there, served to keep plainly before men's eyes the starting-point of the new order of things. Augustus himself was not actually deified in Rome during his life; but the step to the company of the immortals was only a short one, and during his life the 'genius' of Augustus was associated with the worship of the Lares.

Marriage
Laws.

Among the old forms of worship which had decayed was that of Juno, the old goddess of the Roman matrons, and with it was decaying the marriage system which was under her especial patronage. To restore the old moral as well as religious purity of Rome was one of the chief aims of Augustus, and no social evil was more striking or more fatal in its effects than the prevalence of celibacy, and the little regard shown for the marriage tie. A series of laws aimed at this object began with the *Lex de Maritandis Ordinibus* in 18 B.C. which imposed heavy penalties on all who obstinately remained single, e.g. an unmarried man could receive no

legacies and a married man with no children forfeited a half. A law of similar tendency had already been proposed in 27 B.C., but the opposition was then so vehement that Augustus thought it best to let the bill drop. Stringent penalties were imposed on adultery, and sumptuary laws passed to check the prevailing luxury. In the year 9 A.D. was passed the celebrated *Lex Papia Poppaea*. This was virtually 'a matrimonial code, a revision and amendment of the *Lex Julia de maritandis ordinibus*.' It was regarded as one of the most important pieces of Roman statute law. Among the purposes of the *Lex de maritandis ordinibus* had been the prevention of misalliances, the encouragement of equal marriages, and the regulation of divorce; the *Papia-Poppaeian* law went farther, endeavouring not only to multiply marriages, but to insure their fruitfulness. This was attempted by a system of rewards and penalties. Amongst the rewards were—for men, a graduation of honours according to the number of their lawful children alive or killed in battle, and admission to office for a parent at an earlier age than for an individual who was childless; for women, relief from tutory and a right, more or less restricted, of independent testamentary disposition if they were the mothers of a certain number of children. Of the penalties of celibacy and unfruitful marriages the chief was incapacity in many cases to take a testamentary succession or bequest. Many testamentary bequests thus lapsed and became technically '*Caduca*' (forfeited to the State). For their disposal the statute contained elaborate provisions, hence the name of '*Lex Caducaria*' so often applied to it. But neither of these measures was entirely successful; the *Lex de Maritandis Ordinibus* did little beyond giving the sanction of law to a sort of caste system, and the aversion to marriage felt among the higher circles of Rome was so ingrained that even the graduated system of rewards and disabilities did little to remedy the evil. The measures are chiefly interesting as showing the view that Augustus took of his responsibilities as ruler of the Roman world.¹

¹ The commonest phrase in connection with these laws is '*Jus trium liberorum*,' the advantage conferred in law on the father of three children.

The
Freedmen

From the social reforms of Augustus must not be omitted the regulations dealing with the position of freedmen. Rome had long been suffering from a huge city rabble formed largely of emancipated slaves. Augustus dealt with this problem in several ways; while marriages between freedmen and women of Senatorial rank (and *vice versa*) were forbidden, marriages between ex-slaves and citizens of other ranks were encouraged, and thus the Libertini were gradually drawn into the citizen class. But the most important measures were those dealing with manumissions. The Lex Aelia Sentia in 4 A.D. placed elaborate restrictions on manumission intended to restrain elaborate resort to enfranchisement 'on motives of ostentation'; for example, if a slave of bad character were manumitted¹ he became merely a 'peregrinus dediticius,' i.e. he gained no rights, and could never attain the Roman 'Civitas'; to gain the full citizenship the slave must be over thirty, he must be owned by a Roman citizen in quiritary ownership, and manumitted in one of the legally recognised ways; if under thirty he must be manumitted by the 'Vindicta' upon adequate cause approved by a Council, which in Rome consisted of five Senators and five Roman knights. Later still was passed the Lex Fufia Caninia, by which the enfranchising of large bodies of slaves by testament was forbidden and a definite maximum fixed; thus a man possessed of two slaves but not more than ten was allowed to manumit one-half; from ten to thirty the maximum was one-third; in no case could it exceed one hundred.

ADMINISTRATION OF ROME.

Administration of
the City.

When the Principate was first constituted this branch of administration was left to the Senate, but was gradually withdrawn owing to their incompetence, and placed under the control of the Emperor. The chief official connected with this department was the Praefectus Urbi. In early days he was an extraordinary official whom the king nominated to direct affairs in Rome during his absence. After the institution of the Praetorship the Praetors took the place of the

¹ Gaius I. 12. sqq.

Consuls during their absence and the Praefectura Urbi disappeared. It was revived by Julius Cæsar who nominated City Prefects with full administrative powers for an indefinite time during his absence without consulting the people. Augustus on several occasions did the same, when both he and Agrippa, his consort, were away from Rome. Under Tiberius the Praefectus Urbi became a permanent official with the full functions of a Prefect of the police. His special duties were to look after the peace of the city and to provide against all political disturbances. He was appointed directly by the Emperor for an indefinite time from among the Senators of Consular rank, and had under his orders a city guard composed at first of three and afterwards of six Cohorts, each of 1000, and later of 1500 men (Cohortes urbanae). Praefectus
Urbi.

The Prefect of the city had to keep the slave population in order, to take preventive measures for maintaining order at the public games, to investigate and remove if possible all inconveniences that were likely to cause trouble, such as dearth of meat (Cura Carnis), excessive severity of masters in the treatment of their slaves, want of due respect on the part of freedmen towards their patrons. All crimes, misdemeanours, etc., in any way connected with these branches of administration came within his judicial competence.

Beside the general Prefect of the City was created another Prefect to superintend the night police and the actual safety of the city and its buildings. This duty had formerly belonged to the Aediles, but was taken from them in 6 A.D. and given to the Praefectus Vigili, appointed by the Emperor for an indefinite period, from among the Equites. He had under his orders a night police force composed of seven 'Cohortes Vigili,' recruited particularly from Freedmen, men of Latin rights, etc. Each Cohort, consisting of 1000 or 1200 men, had a definite station, and was entrusted with the care of two of the fourteen city districts created by Augustus, their special duty being service as a Fire brigade. The Praefectus Vigili received criminal jurisdiction in case of incendiarism and offences committed at night; but as in the case of all jurisdiction of the Prefects there was appeal from his sentence to the Emperor. Praefectus
Vigili.

Other
Municipal
officials.

In exactly the same way the public works department was transferred to the Emperor and delegated by him to special officials. Thus towards the end of Augustus' reign there came into existence two 'Curatores operum publicum' named by the Emperor from Senators of Praetorian rank. In 11 B.C. a 'Curator aquarum' was appointed to look after the water supply; he too was a Senator of Consular rank named by the Emperor. In 15 A.D. Tiberius created a commission composed of five Senators to act as a Conservancy board for the Tiber ('Curatores riparum et alvei Tibicis'). Still another commission was the 'Curatores Viarum' whose administrative work extended over all Italy.

Curator
Annonae.

The most important branch of the City administration was the organisation of the corn supply (Cura Annonae) this included not only the control of the free distribution, but the general duty of seeing that corn was sold at a low rate and that nothing resembling a modern 'corner' was allowed to exist. This department was assigned by Augustus to an Imperial official chosen from the Equites for an indefinite time. The arrangement of the corn supply necessitated natural an elaborate organisation in the provinces as well as in Rome, to provide for the raising of the necessary supplies and their shipment to Rome. For this purpose the Praefectus Annonae had in the various provinces a number of 'adiutores' or 'curatores annonae.' Like all the Prefects he had jurisdiction in all civil or criminal offences connected with his department.

The
Regiones.

The whole city was divided by Augustus into fourteen 'Regiones,' and these again were sub-divided into two hundred and sixty-five 'Vici,' each 'Vicus' being under the presidency of four 'magistri' elected each year from among the inhabitants of the district. The object of this arrangement was chiefly religious, and the magistri of the sections had for the chief duty the celebration of religious fêtes connected with their section. The Presidency of the fourteen Regiones was divided between Aediles, Tribunes and Praetors who gave the magistri the necessary authorisation for building chapels in their section, superintended the work, and themselves carried out the special sacrifices appointed for the Regio.

ADMINISTRATION OF ITALY.

Wherever there had been local self-government under the Republic the early Emperors were very unwilling to interfere. Adminis-
tration of
Italy. All the Italian communities now enjoyed the Roman citizenship; the towns were either 'coloniae' or 'municipia,' between which there was only a formal difference. The term 'colonia' was now applied to those towns which had in early days been 'coloniae civium Romanorum,' or 'municipia' of 'cives sine suffragio,'¹ that is to say all towns that had not been entirely independent, but had formed as it were an appendage of the Roman citizen body. The term Municipia was used to designate those towns which had been 'civitates foederatae' or Latin colonies, and so had always had a distinct constitution of their own. The difference between them under the Emperor was merely that the term municipium was the more honourable of the two.

Among the innovations of Augustus was the division of Italy into eleven administrative districts or *Regiones* to facilitate the taking of the census and the financial administration. Further he posted in certain districts military guards to maintain order, and protected the coasts by the stationing of two permanent fleets, one at Ravenna, the other at Misenum, each commanded by a *Praefectus Classis* appointed by the Emperor.

In 20 B.C. Augustus took over the care of the Italian roads which he entrusted to the 'Curatores Viarum.' Each great road had its 'Curator,' a Senator of Praetorian rank at least; the smaller roads were entrusted to 'Curatores' or 'Procuratores' of Equestrian rank. Provisions were made for a better connection between Italy and the provinces by great roads, and these together with the unaccustomed security of the seas gave an enormous impetus to the commerce of Rome.

The municipal system which had been growing up throughout Italy since the social war, and which is generally thought to have been first organised by Sulla² had been the subject of the great *Lex Julia Municipalis* of Julius Caesar. It is Municipal
System.

¹ See p. 153 *sqq.*

² See p. 302.

certain that in this law a uniform system of municipal government was prescribed. Augustus adopted its principles and did all he could to encourage a healthy municipal life in the towns, and to prevent the absorption of the municipal population by Rome.

The Municipales, the citizens of the Italian towns, were divided into three classes, the *Ordo Decurionum*, the *Ordo Augustalium*, and the *Plebs*. The first corresponded to the Senatorial order in Rome, the second was a creation of Augustus and held an intermediate position between the Decurions and Plebs just as the Equites did at Rome between the Senate and People. Augustus founded in all the towns an annual college of six members, called *Seviri* or *Seviri*, who offered sacrifices in the name of the Emperor and his consecrated predecessors (whence they were called 'Seviri Augustales'), performed the public games, etc., each member on his entry paying a certain sum into the municipal treasury. They were named by the Senate from among the Municipales, generally from among the *Libertini* for since these latter were carefully excluded from holding any of the old magistracies or public posts in the *municipia*, Augustus was desirous of providing them with a purely honorary post which would afford an outlet for their ambition. The *Seviratus* was a magistracy, not a priesthood; but its functions were honorary, and after holding the post the ex-magistrate became a member of the '*ordo Augustalium*.'

The public powers in the *Municipia* were vested in the *Comitia*, Senate and Magistrates. The *Comitia* elected the magistrates '*Duoviri*' or '*Quattuorviri iuri dicundo*,' the Aediles and the Quaestors, voting by *Curiae* or *Tribus* according to the system obtaining in the different *Municipia*. The Senate was nominally composed of a hundred decurions, and the list was drawn up every five years by the supreme magistrates, who were bound to select duly qualified citizens of at least twenty-five years of age, with a census of 100,000 sesterces, ex-magistrates having first claim to a seat. This body, clearly formed on the pattern of the Roman Senate, but on a smaller scale, discussed as a general rule all communal affairs of any importance; and it

authorised the chief magistrates to arm the citizens in defence of the town, it fixed each year the days of religious festivals, it had general supervision over the city-worship, the 'ager publicus,' the municipal treasury, and the public works. Generally the decrees of the Senate held good for the community, but the presence of a definite proportion of the decurions was necessary, which varied according to the importance of the matter under discussion. Like the Roman Senators the decurions enjoyed certain honorary privileges, such as special seats at the games, and had insignia of their own.

The ordinary municipal magistrates were the Duoviri or Quattuorviri iuri dicundo, Aediles and Quaestors, the qualifications being the same as for the Senate. By the Lex Julia the age was fixed ordinarily at thirty; Augustus lowered it to twenty-five. The Certus ordo magistratuum was rigidly applied, and the 'Professio' and form of election were the same as at Rome. In other respects they were close copies of the Roman magistracies, e.g. the collegiate principle was carefully applied, according to which a member of any college had power of veto against his colleague and inferior magistrates. One of the chief burdens that devolved on them was the provision of public games, part of the expense of which fell on their own shoulders.

The chief magistrates were two colleges, each of two members, who in the municipia bore the name of 'Quattuorviri iuri Dicundo,' while in the coloniae they formed two colleges of 'Duoviri iuri Dicundo.' They were the chief administrative officers of the city, summoning at pleasure the local Comitia and Senate. They managed the finances under the control of the Senate, made contracts for public works, etc., and were invested with general jurisdiction over the whole territory of the community; but the general criminal jurisdiction which belonged to them at the end of the Republic, except in matters which by law belonged to the Quaestiones at Rome, was gradually diminished and passed to the Praefectus Praetorio and Praefectus Urbi; they retained only the power of preliminary investigation and detention of the prisoner, and a cer-

tain right of punishing slaves. Their civil jurisdiction corresponded to that of the Praetors at Rome; but there was a maximum penalty beyond which they could not go.

The Aediles were also a copy of the old Roman Aediles; they superintended the police of the markets, weights and measures, the corn supply, police arrangements, and the maintenance of the public buildings. The Quaestors were as they had been at Rome the chief clerks of the treasury.

Under the later Emperors a continual change was going on, as marked as that which took place in the relations of the allies to Rome under the Republic. The municipal independence, at first so scrupulously guaranteed and conscientiously respected, was gradually diminished. The system of centralisation introduced so much to the benefit of all parts of the Empire by Augustus gradually extended till Italy came to be entirely dependent on the great Imperial officers, particularly the Praefectus Praetorio, and the municipal freedom was nothing more than an empty name, when every detail of municipal life was liable to the interference of the supreme powers.

THE PROVINCES.

The Provinces. There was no department of the Roman system which was more efficiently reorganised than the government of the provinces. On no one did the new monarchy confer greater blessings than on the distant subjects of Rome. When the Roman provinces were first acquired nothing was done to create an efficient system of control by any central power; everything was left to the caprice of the individual governor. The system was utterly bad from the first, and as time went on familiarity with the methods of provincial administration meant to the Roman governor only an increased familiarity with the methods of misrule and extortion. The greatest evil of all was perhaps the clear line drawn between Rome and Italy on the one side and the provinces on the other—a line that no provincial could hope to cross. It had long been one of the aims of the best statesmen of the Democratic party to draw the

provinces in some way nearer to Rome and Italy; Julius Cæsar evinced the same desire; and in no other matter did the Empire more clearly show itself the heir of the Democratic party. Augustus found Italy free from all burdens of taxation, living on the spoils of the provinces. These were ground down beneath a heavy tribute, plundered by the tax-gatherers, ruined by the unbearable requisitions of the governors, robbed by every hanger-on of the Roman magistrate sent to govern them. A Roman magistrate left Rome for his province, obtained an army, and thus in troublous times was always ready to take a hand in the reckless game of civil war. All this was henceforth changed; the divergence between Italy and the provinces was lessened; indirect taxes were imposed in Italy, and the idea so long entertained by the Italians that they were the chosen people who might live on the toil of the provincials was banished; the provincials were for the first time recognised as having rights as well as burdens; the whole system of taxation was revised; a census was taken through the whole Empire to ensure a fair distribution of taxation; the system of payment in kind was generally exchanged for the payment of a definite sum assessed on the information derived from the Census, and the method of collecting the tribute by means of financial syndicates, which had encouraged every kind of oppression and robbed the Roman treasury of huge sums every year, was laid aside in favour of direct collection by responsible officials.

Thus while Italy was placed relatively in a lower position than before, the provincials were raised, and the first step was taken towards the ultimate equalisation of Italy and the provinces. The time was not yet ripe for the general extension of the Roman citizenship that formed the great feature of the reign of Caracalla; but all that could be done for the provinces by the institution of a fair administration and a close system of effective control was done by Augustus. The provinces were taught to feel that the ruler had a close personal interest in them; the Proconsular power, which formed the very basis of the Principate, formally expressed the closeness of this connection. And

Augustus was not satisfied with merely posing as their protector, and leaving the work of organisation to subordinates; he showed his interest in the well-being of the provincials much more effectively. In 27 B.C. he went to Gaul, where he thoroughly organised the provinces won by Julius Cæsar, and took the new census. Three years he spent in settling Gaul and Spain, and after a short stay in Rome he set out in 22 B.C. to investigate the condition of the Senatorial and Eastern provinces, travelling through Sicily, Greece, and Asia to Syria, and everywhere using his 'Maius Imperium' to alter the state of affairs where it seemed needful. This occupied him till 19 B.C. Again in 16 B.C. the troubles in Gaul that culminated in the defeat of Lollius necessitated his presence there, and three more years (16-13 B.C.) were spent in reorganising the Gallic provinces and reforming the government, and in the settlement of Germany and Spain. In 10 B.C. and 8 B.C. Augustus was again in Gaul. These frequent expeditions, and particularly the amount of care spent on the Gallic provinces, show what a lofty ideal Augustus had of the duties of the ruler towards the provinces, and mark more than anything else the difference between the old irresponsible system of provincial government and the new era inaugurated by the Principate.

Imperial
and Senatorial
Provinces.

In 27 B.C. the provinces had been divided into two classes, Imperial and Senatorial, 'provinciae Cæsaris,' and 'provinciae Senatus' or 'populi.' The latter were 11 in number, Africa, Asia, Bithynia, Achæa, Illyricum, Macedonia, Crete and Cyrene, Sicily, Sardinia, and Hispania Baetica; to these were added in 22 B.C. Cyprus and Gallia Narbonensis, while Illyricum was transferred to the Emperor in 11 B.C. The Imperial provinces in 27 B.C. were Gaul, Syria, Cyprus and Cilicia, and Hispania Citerior. Their number was increased subsequently by the division of single provinces into two or more, and by the inclusion of all provinces constituted after 27 B.C., e.g. Moesia, Pannonia and Dalmatia.

Senatorial
Provinces.

The governors of the Senatorial provinces were always Proconsuls; the provinces themselves were divided into

two classes—Asia and Africa were called Consular provinces, and all the rest Praetorian, according as the governors were chosen from Consulares or Praetorii among the Roman Senators; but no matter what was their Senatorial rank they all held the position of Proconsul in their provinces. The governors were drawn by lot from among the Senators of the required rank. Generally the five years' interval between the holding of a magistracy and the government of a province, introduced by the Lex Pompeia in 52 B.C., was still observed; subsequently it became longer, and after Tiberius it was generally ten and sometimes fifteen years. The usual tenure of a governorship was one year; in exceptional cases it was prolonged to two or even three years. With the Proconsul went a Quaestor and one 'legatus proconsulis pro praetore' in the Praetorian, and three such 'legati' in the Consular provinces; these 'legati' were named by the governor subject to the approval of the Emperor, and must be of Senatorial rank equal to that of the governor himself. The actual powers of all the Proconsuls were the same; but the superior dignity of the governors of the Consular provinces (Asia and Africa) was attested by their having twelve lictors instead of six. Generally the Senatorial provinces being completely pacified had no need of an army, and the Proconsuls had no military duties to perform. Africa alone at the beginning of Augustus' reign had one legion and sometimes two, commanded by 'Legati Legionis' named by the Emperor, till Caligula detached Numidia from Africa and made it an Imperial province, giving the government to the Legatus of the old African legion.

The special work of the Proconsul was the ordinary administration, Civil jurisdiction, and Criminal jurisdiction over foreigners. The Legati exercised any jurisdiction delegated to them by the Proconsul. The Quaestor, as in Republican times, kept the chest; but the chief superintendence of the raising of monies due either to the Aerarium or Fiscus belonged to a 'procurator Augusti,' who was also entrusted with the administration in the temporary absence of the Proconsul.

Imperial Provinces. The Imperial provinces depended directly on the Emperor; they constituted his 'Provincia'; he was the Proconsul, but he administered them by means of officials named by him for an indefinite time, 'Legati Augusti pro praetore,' and chosen according to the importance of the province from Senators of Consular or Praetorian rank, *e.g.* Syria and Germany were Consular provinces, Cilicia and Aquitania were Praetorian. These officials were entrusted with the administration, civil jurisdiction, criminal jurisdiction over foreigners and with military command when it was necessary. The Legatus Augusti was only a subordinate of Augustus and was under his direction in all matters pertaining to the legions; under him served the 'legati legionis' named by Augustus from Senators of Praetorian rank. In some of the minor provinces, however (*e.g.* Numidia) the 'Legatus legionis' was at the same time the governor.

An entirely new principle was introduced in the treatment of some countries lately subdued, which were not considered as provinces belonging to the Roman people at all, but as annexed states the sovereignty of which had passed from the national dynasty to the Emperor. In such cases the administration was delegated to Equites called 'Praefecti' in the most important countries such as Egypt, and 'Procuratores Augusti' in the less important, such as Judaea till 70 A.D., Noricum and Rhaetia, the Alpes Maritimae, Thrace, etc. The Prefect of Egypt had all the powers of a viceroy, and had under him a 'Juridicus Alexandriae' or 'Aegypti' for judicial work, a 'Procurator Alexandriae' for financial work, and a Roman army of two or three legions, each under a 'Praefectus Castrorum,' all these officials being named by the Emperor from among the Equites. The smaller districts were under officials called 'Procurator et Praeses,' and were in a certain subordination to the Legatus Augusti who commanded in the nearest Imperial province.

All the Promagistrates and provincial officials received salaries according to their rank (*e.g.* a Consular Proconsul received 1,000,000 sesterces). All governors before departing to their provinces received from the Emperor instructions ('mandata principis') to which they were bound to conform

in their administration, and were forbidden to raise troops or levy taxes on their own initiative. Recruiting was dependent on the Emperor's orders, and was generally undertaken by *Dilectatores* appointed by him; sometimes in the Senatorial provinces it was delegated directly to the Proconsul by the Emperor.

In each province there was a large number of communities with different rights. The Republican system had always been to create differences between the subject communities in the provinces as well as in Italy; the creation of a divergence of interests was a sure way to prevent effective union. Thus in the provinces there were free allied cities, communities of Roman citizens, and others again who almost corresponded to the '*peregrini dediticii*' of Italy. But no matter what the political standing of the various inhabitants might be, the principle that no one could hold provincial land in quiritary ownership was strictly adhered to; the Roman state was the ground landlord of the provinces and the rent had to be paid in the form of Tribute, except only in cases where immunity from taxation was specially conferred. This privilege was given in three ways, either by a '*foedus*,' the community then being regarded as an allied State ('*civitas foederata*'), by special gift of the Roman people ('*civitas libera et immunis*'), or under Augustus by the fiction of extending Italy to embrace the community in question, and conferring on it the '*Jus Italicum*.'

The provincial communities may be divided into three classes,¹ *Civitates Peregrinae*, *Municipia Latina* (towns with Latin rights), and *Municipia* or *Coloniae Civium Romanorum*.

Civitates Peregrinae were as under the Republic either *Civitates foederatae*, *Civitates liberae et immunes*, or *Civitates stipendiariae*.² Of these only the last mentioned were under the actual administration of the governor; but the freedom of the free cities was more formal than real, and in the second century A.D. the Emperor and governors interfered directly in their administration.

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¹ See Willems, '*Le Droit Public Romain*.'

² See p. 208.

Municipia Latina.—At the end of the Republic there were no Latin Communities left in Italy, and the old 'Jus Latii' only continued to exist in the provinces for the Latin colonies planted there. Augustus conferred the Jus Latii on provincial cities or whole districts, the inhabitants of which were called 'Latini Coloniarii'; such were many of the cities in Sicily. These Latins had certain facilities for gaining the Roman citizenship, e.g. by being Decuriones or holding a magistracy. The provincial 'Jus Latii' was inferior to the old 'Jus Latii' of Italy in that the Provincial Latins had to pay Tributum soli.

Municipia or Coloniae Civium Romanorum.—The number of these was largely increased under the Emperors by the planting of new colonies and the conferment of the Civitas by the Emperor. These, however, paid the Tributum, just like the other provincials, except where they were relieved from it by the conferment of the 'Jus Italicum.'¹

From the beginning of the Empire we hear of provincial assemblies ('Concilia provinciae') in all the provinces. They were composed of deputies (legati) chosen by the various cities, and met once a year, generally in the chief town of the province near the 'Templum Romae et Augusti.' The president was the 'Sacerdos,' or 'Flamen provinciae,' the high priest of the Emperor worship, annually elected by the Concilium. He administered the provincial treasury which provided for all the expenses of this worship and for the festivals by means of certain sums collected from the various cities. Beside its religious administration the Concilium Provinciae passed decrees of various kinds, e.g. for the erection of statues to benefactors, for presenting addresses to the departing governors, or making complaints and sending deputations to the Emperor.

The municipal constitution of these Municipia or Coloniae Civium Romanorum and the oppida Latina was the same as that of the Municipalities of Italy.

¹ The 'Jus Italicum' implied especially the right of exemption from direct taxation which was from the earliest times the chief of the old privileges distinguishing Italy from the provinces.

THE ARMY.

Closely connected with the provincial arrangements of The Army. Augustus was the reorganisation of the Army, for the essential basis of the division of the provinces between the Emperor and Senate was the consideration of military necessities. The Proconsular Imperium of the Senatorial governors, though military in theory, gave them in fact no military powers at all, for the Emperor and he alone was recognised as the one source of all military authority. The Emperor had by virtue of his 'Maius Imperium' the power of controlling the Senatorial governors; but on what law or other constitutional arrangement the abrogation of all the military functions of the essentially military Proconsuls depended we cannot say. Of course in the Imperial provinces the exclusive direction of military matters by the Emperor presents no difficulty, for the governors there were merely the Legati of Augustus.

Augustus' great reform was the creation of a standing army. The system of the early days when the Roman government called out its citizens for service during a part of the year had long gone out of date; general enlistment of all the citizens in rotation had long ceased to be the rule, and the legions were filled by volunteers who were available in large numbers from the lower classes. Instead of raising troops in Rome for service in Italy or near home it now became necessary to occupy continually some of the frontier provinces with sufficient forces. Yet, though in practice the same men continued to serve in the legions for many successive years, the legions were theoretically re-enlisted every year, and the full number of years of service needed to secure a final discharge need not be served successively. Augustus did not at once introduce any change, and we cannot trace the gradual steps by which the old system was replaced. It seems that at first Augustus made no change beyond dismissing the legions enlisted for the Civil war for which there was no longer any use, settling the veterans, and raising new legions to take their place. But in the year 13 B.C., on his return after the reorganisation of Gaul, he arranged the service rules on a new plan; the term of service was fixed at sixteen *successive* years for the legion- Change in the nature of military service.

aries and twelve for his own guards; at the end of this time a definite money reward was substituted for the grant of land. These periods were raised in 5 A.D. to 20 years and 16 respectively. This great change which replaced the annual levy by a standing army was arranged by a *Senatus Consultum*; in everything else the order of the Emperor was sufficient.

The whole military system was thoroughly reorganised; it was necessary to fix the strength of the new army, its division among the provinces, and all the other details. The Legion kept the strength fixed by Marius, a maximum of 6000 and a minimum of 5000, divided into 10 Cohorts and 60 Centuries, the Roman citizenship being a necessary qualification for enlistment. Each legion was commanded not by the *Tribuni Militum* in rotation as before, but by a new officer, the *Legatus Legionis* (or *Legatus Augusti*) of Senatorial rank; the military Tribunes, some of whom were in the early days of Augustus elected as under the Republic, soon came to be all named by the Emperor, and passed into staff officers commanding Cohorts under the orders of the *Legatus*. All the troops had to take the oath of allegiance to the Emperor in person and the articles of service were fixed by *Constitutiones Augusti*.

Augustus had in his struggles for the throne learned the influence of sea power on the course of history. The fleet was thoroughly organised and posted at fixed naval stations, two on the Italian coast, Misenum and Ravenna, and one in Gaul, Forum Julii. But Augustus kept up the old Republican prejudice; the fleet now as always was regarded as an inferior service; the naval levies were freedmen and foreigners, and the command was entrusted to an *Eques* or a freedman of the Emperor.

No sooner was the Civil war concluded than Augustus began to reduce the large number of legions on foot. In this matter again we are in the dark as to his procedure; we know only that at his death the number of legions was twenty-five, less than one half of the total forces at Actium. Doubtless the greater part of Antony's forces were disbanded as soon as possible, though some of them were certainly taken into the new army. It is probable that the reduction

in the number of the legions proceeded gradually and in connection with the increase of the army by means of the provincial enlistments, the 'Auxilia.' These were bodies of provincials, both foot and horse, arranged in Cohorts sometimes comprising 500, sometimes as many as 1000 men. There were attached to the legions in numbers about equal to the legion itself; occasionally an unimportant Procuratorian province was garrisoned exclusively by such Auxilia. The command was given to a Roman Eques, and the provincials serving in them received the Roman citizenship. Their period of service was fixed at 28 years.

The legions and the Auxilia received certain distinguishing numbers; under the Republic the legions had been numbered according to the order of their formation, but this changed every year, until the time of the Civil wars. Now of course the numbers were permanent, and had quite as important an influence in keeping up *Esprit de corps* as the names of modern regiments. Another great innovation was the permanent camps in which the legions and the Auxilia were stationed in the various provinces, and to which they generally returned even if they were called away to serve temporarily in some distant province.

If we compare the 25 legions and the Auxilia kept on foot by Augustus with the numbers given by Polybius of troops under arms and ready to serve in Italy in the third century B.C. (224,000 out of a total population of 770,000), and then take into account the vast extension of the Empire, the moderation of Augustus' military scheme is at once apparent. Augustus was a thorough statesman and organiser, and he evidently thought his army sufficient for all needs, beside which the military colonies of veterans planted in the provinces formed of themselves a numerous and valuable reserve. Unfortunately for Rome his successors took a less statesmanlike view of their responsibilities and the necessities of the growing Empire; the standard of the Augustan army, its numbers and distribution were preserved until it became unable to meet its requirements.

Italy itself was not occupied by the Legions at all; the only troops stationed there were the newly organised Prae-

torian Cohorts. Of these Augustus raised nine, each of 1000 men; they were picked and favoured troops, receiving double pay and serving only for sixteen years, under the command, after 2 B.C., of two Prefects of Equestrian rank. These Praefecti Praetorio in later years became the most important men in the State. Augustus trusted, and no doubt rightly, in the veteran colonies in Italy; each of these served as a small garrison attached to the Emperor's cause, animated by feelings of loyalty and gratitude to the person of the Emperor. Otherwise the personal safety of the Emperor and the peace of Italy lay entirely in the hands of the Praetorian guards and their Prefects. The evils of this system began to show themselves very soon after Augustus' death. The Praetorians, concentrated by Tiberius into one permanent camp in the city instead of being scattered as they had been under Augustus, soon recognised their own power. An ambitious Prefect and a discontented guard were quite capable of pulling down one Emperor and putting up another; a conspiracy of the Praetorians caused the death of Gaius, and the voice of the Praetorians hailed Claudius as Emperor while the Senate were vainly discussing the relative merits of Empire and Republic.

Enough has now been said to show in its main outlines the organisation effected by Augustus. Everywhere the hand of the new master of the Roman world was seen; Rome and Italy, the army and the provinces, all were reorganised. The Emperor accepted the burden of all responsibility, and showed his determination to enforce a rigid system of control. He completed and gave a definite shape to the work that the great Caesar had begun, and Caesar himself could hardly have ruled the Roman world better than Augustus did. The great Dictator saw further; had he lived it would not have been left for Claudius to grapple with the conquest of Britain, and for Trajan to crush the power of Parthia. But it is doubtful if Caesar could have founded the Roman Principate as Augustus did; he could never have acted with the caution that was

the chief characteristic of his less broad-minded successor, conciliating Republican prejudices, maintaining Republican forms and finally evolving that great compromise, the Dyarchy.

Before Augustus died the Dyarchy was already on its way to become a fiction; the partnership between the Emperor and the Senate was always becoming more unequal, and the subsequent history of the Imperial constitution is merely the history of the gradual change from Dyarchy to an avowed Monarchy.

The death of Augustus theoretically left to the Senate not only the free choice of a successor, but the choice between the Principate and a return to the old order of things. The Principate died with Augustus; it was left to the Senate to confer Augustus' powers on anyone else if they chose to do so. In fact, of course, their freedom was considerably hampered by the position that Tiberius already held as the consort of Augustus. Before the Senate had time to move Tiberius had given the watch-word to the Praetorian guard, and the armies were taking the oath of allegiance to him as Emperor. This was a usurpation; the natural result was that in Rome too the Consuls, the people, and Senate took the oath of allegiance before Tiberius had by any constitutional act been invested with Imperial power. Thus assured of the crown Tiberius could afford to follow the precedent of Augustus in 27 B.C. and lay down his extraordinary powers, leaving to the Senate and the people the decision of the future. The farce that followed is well known; the feigned reluctance to assume the burden of Empire gradually gave way before the insistence of the Senate, and Tiberius was invested successively with the powers of Augustus. It is important to observe that in this case no mention was made of the time-limit of five or ten years which Augustus had always maintained, and yet no question of life-tenure arose; Tiberius openly professed his intention of laying down his powers when there was no longer any need of him; but the disappearance of the old formal time-limit alone marked an important step in the direction of avowed Monarchy. The acceptance of Tiberius

as Emperor did not however definitely recognise the principle of a hereditary rule, or the right of an Emperor to nominate his successor; it merely showed that the Emperor could place his nominee by adoption and other means in such a pronounced position as practically to assure his elevation to the throne.

The Dyarchy being in form an equal partnership followed naturally that when the one partner died supreme power was vested in the hands of the survivor. The proceedings on the death of Augustus show how hollow the partnership really was. It has been pointed out already that even Augustus himself was continually encroaching on the sphere of the Senate. In fact the Dyarchy was a fiction and a transparent one. However carefully the ruler might cherish the form of the compromise, however zealous he might be in upholding the dignity of the Senate, his absoluteism was above all question. So long as the Emperor ruled well and justly the fiction of the Dyarchy flourished; the Senate was happy in its activity and the Emperor secure from any encroachments. When the age of tyranny began the Senate fell upon its knees and recognised the fact of its impotence. The danger to the tyrant came not from the opposition of the Senate or the assembly, but from the prefects of the Praetorian guard and the generals of the armies; and in the darkest hours of tyranny and oppression, even while the fiction of Dyarchy was still maintained and the constitution of Augustus was in theory unimpaired, the voice of protest came, not from this equal partner in the government of the Empire, but from individual Senators who had learned the conception of duty in the school of the Stoics and who were eager in the cause of freedom to win the crown of martyrdom.

CHAPTER XIX

THE CHANGE FROM DYARCHY TO MONARCHY

THE great constitutional innovation of Tiberius was the transference of the elections from the Comitia to the Senate; the people seem to have seen the futility of the popular elections, and raised little complaint;¹ the Senators and wealthy citizens were delighted at being freed from the intolerable burden of the bribery which was a necessary feature of the popular elections. From another point of view this innovation was important; for since the holding of the Quaestorship carried with it a seat in the Senate, and the election to the Quaestorship now lay with the Senate, this body received the privilege of filling its own ranks. However the exercise of 'adlectio' by the Emperor became more common, and the independence of the Senate was more apparent than real; but still it seems that a certain amount of room was left for the exercise of free selection by the Senate.

One other innovation was made by Tiberius; the Praefectus Urbi became a permanent State official. Hitherto he had been appointed only in the absence of the Emperor, in which case he acted as his deputy. Now he became the regular commandant of the city cohorts and held the position of a permanent prefect of the police. The institution of a permanent Praefectus Urbi, nominated by the Emperor with complete control of the city police, strengthened the position of the Emperor at the expense of the Senate by removing from them and the magistrates the control of one more department in the administration.

At first sight it might seem that Tiberius insisted on his position as supreme ruler of Rome less strongly than

Elections transferred to the Senate.

The Praefectus Urbi.

¹ Tac. Ann. i. 15.

Augustus; that the Senate was less fettered; for we know that Tiberius referred many matters to the Senate which was quite competent to manage himself.¹ In fact this readiness to leave so much in the hands of the Senate is a clear indication of the perfect subjection in which the Senate was held. The semblance of the old freedom of Senate magistrates may have been restored; but any real liberty was impossible in view of the important position now held by the Praetorian Guard who were concentrated in the city of Rome. The soldiery, as Tacitus tells us, accompanied the emperor everywhere, in the Forum and in the Senate House alike. The Praetorian Guard was now for the first time paraded as the chief support of the imperial throne; with them to fall back upon Tiberius could afford to give a semblance of independence to the Senate and magistrates with full assurance that there could be no actual opposition to the imperial will.

Govern-
ment of
Tiberius.

However black the character of Tiberius himself may be painted, with his constant suspicions which urged him to all sorts of tyranny and cruelty, there is a bright side to the picture. Tiberius was a ruler of great ability. He had spent much of his early life in important commands; he knew the requirements of the Empire and was familiar with the circumstances of the provincials. Hated though he was at Rome, his scrupulous fairness was a proverb among the provincials: no robbery by the governors was permitted, no new exactions were tolerated; the duty of the shepherd was to 'shear his sheep and not to skin them.' In the same way he was always careful of the material prosperity of the capital. Great care was taken to prevent any failure of the corn supply, and Tiberius, who was himself a man of frugal mind, husbanded carefully the resources of the Treasury. No new taxes were imposed, and yet he was able to come forward with generous contributions for the sufferers in cases of distress such as the great earthquake in Asia and the fire on the Aventine. In his relations to the Army too Tiberius was equally fortunate. Except that he had to quiet an outbreak of dissatisfaction among the legions on coming to the throne by doubling the legacies bequeathed to the legionaries by Augustus, he never

¹ Tac. Ann. iii. 60 and 69; iv. 6.

pandered to the army. Discipline was restored and rigidly maintained, and donations were few.

Tiberius in the early years of his reign was always confronted by the dangerous popularity of his two adopted sons, the children of Drusus. But this very fact seems to have had a good effect on his government; he dared not do anything that would bring additional odium on himself in face of the popular admiration lavished on his presumptive heirs. Neither of them had any qualities that really deserved the regard of the people, and in spite of the popular slander that wilfully misinterpreted all Tiberius' acts, the Emperor cannot be shown to have been guilty of any unfairness towards them. The campaigns of Germanicus were a failure; no one knew better than Tiberius himself the danger and difficulties of those operations, and with his military experience he saw the futility of allowing an incompetent commander to persist in his plans of conquest in the North. But when Livia and the two sons of Drusus were dead, a great change for the worse came with the ascendancy of Sejanus, an influence all the more remarkable in view of the suspicious nature of the Emperor. It was then that the constant trials for treason became so grave a scandal in Rome and such a powerful weapon for oppression in the hands of the ruler. Trials for 'Minuta Maiestas' had not been unknown in Republican *Maiestas* times. In old days they had been instituted by a law introduced by a Tribune, as in the famous case of Caepio. But, as Tacitus says, these charges were levelled against deeds not against words:—for example a man was liable to such a charge who had incited mutiny in the army or sedition among the Plebs, or who had by any corrupt act impaired 'the majesty of the Roman name.'¹ The sphere of 'Maiestas' had been extended by Sulla and by Julius Cæsar, and the Lex Julia de Maiestate of Augustus gave a new definition of treason under the Empire. The dignity of the Empire was now represented by the person of the Emperor, and Augustus was the first to apply the law of treason to libellous writings in the case of a certain Cassius Severus who had defamed men and women of distinction; but there were few occasions for the use of this law

¹ Tac. Ann. i. 72.

under Augustus, who was too wise a ruler to bring his into odium by seeking for opportunities for its application. Tiberius, we are told, when consulted by the Praetor, Pomponius Macer, early in his reign, as to whether prosecutions for treason should be revived, replied that the laws must be enforced. This was because he too had been exasperated by the publication of certain anonymous verses attacking him for cruelty, arrogance and his quarrels with Livia. In the first ten years of his reign these processes were comparatively few, and occasionally he struck out a case that had already been brought into court. But in the second half of his reign not only were the cases far more numerous, but they were instituted on the most trivial grounds, and the penalty of banishment was replaced in most cases by a capital sentence.

Delation. It has been already mentioned that Tiberius was scrupulous in protecting the interests of the provincials, and in repressing extortion. But these trials for 'Repetundae' came to be by means of oppression, and an instrument of tyranny hardly second to the trials for treason. There was no difficulty in finding small sins of omission or commission in a provincial governor which had by custom come to be regarded as of no account, but which were in strict law illegal. The danger to the accused was the greater, inasmuch as an accusation of *Maiestas* came to be regularly tacked on to these charges of extortion; in fact Tacitus tells us that a charge of treason was a regular addendum to all criminal charges. Naturally, as this system of judicial oppression spread the class of Delator (professional informers) came into prominence, tempted by the rewards that awaited them, in case their information led to a conviction. These cases were seldom taken before the *Quaestiones*; the regular procedure under Tiberius was to bring the accused to trial before the Senate, he himself often being present, and taking the lead in a hostile examination of the accused. This perversion of justice was the worst feature of Tiberius' reign, and an evil precedent for his successors. It is all the more striking in contrast with the measures by which he posed as the champion of lenity and moderation. In the year 22 A.D. a *Senatus Consultum* was

passed to the effect that sentences passed by the Senate should no longer be executed immediately, but that an interval of ten days should elapse between the passing of the sentence and its entry in the records, in other words, that the condemned man should have ten days respite; but, as Tacitus observes, the Senate had no liberty to alter their plans, and lapse of time did not soften the heart of Tiberius.¹

For this evil state of affairs the Senate was hardly less to blame than Tiberius himself. The results of a practically absolute monarchy soon showed themselves in the servility of the Senate. With no great political questions to engage their attention, the Senators split up into groups engaged in a continuous series of intrigues, the one against the other, always ready to outbid one another for the Emperor's favour, and engaged in an unending contest of flattery. They accepted the tyranny, and encouraged it as profitable to themselves. There was no sign of any republican party recruited from the ranks of the Stoic philosophers as under the later Emperors; there was no active popular opposition to Tiberius though small bodies might be found who sympathised with the family of Germanicus. The throne of Tiberius was safely reared on the absolute servility of the Senate, the apathy of the people and the support of the Praetorian cohorts.

The constitutional changes in the reign of Gaius were, as Gaius, was natural under a half mad and wholly irresponsible ruler, in most cases the result of a sudden whim. Thus in 38 A.D. the elections were restored to the people, and two years later again taken away from them; similarly the *Maiestas* trials were first abolished, and then reinstituted in 39 A.D. While expressing a desire to lessen the burdens of taxation, he so exhausted the treasury by his unlimited extravagance that he was compelled to rob Italians and provincials alike, and to raise money by every form of extortion. So too while professing to uphold the dignity and independence of the Senate and magistrates, he subjected them to every form of indignity. The single permanent innovation of Gaius was the addition of a fifth *decuria* of jurymen to the four already

¹ Tac. Ann. iii. 51.

existing. The greater part of Gaius' reign was merely orgie of cruelty. Every class suffered, especially the Senate, neither in Rome nor in the provinces was life or property safe from the cruelty and rapacity of the mad Emperor.

Vacancy
on the
death of
Gaius.

When Gaius fell by the hand of the assassin, there was a vacancy such as had not yet occurred since the Principate was founded. The Principate, which was in theory elective, had hitherto been virtually hereditary; Tiberius had adopted and clearly nominated as his successor by Augustus, and Gaius had been adopted by Tiberius. No plans had been formed by Gaius, nor had the conspirators selected anyone to fill the vacant throne. The Senate was immediately summoned to the temple of Jupiter on the Capitol, where the republican Senate had been wont to meet, not to the Curia Julia; the acts of Gaius were declared invalid, and his illegal taxes rescinded. Then began a discussion on the future government of Rome; the question was not merely who should be the new Princeps, but whether there should be a Princeps at all, whether the old Republic should not be restored. There were many candidates for the throne, and had the matter been left to the Senate, it must have ended in a struggle between the pretenders to the throne. The decision passed out of their hands; the Praetorian Guard fixed upon Claudius, who, when he found himself forced to take the offered crown, bought the fidelity of the Praetorians by a huge donative, and was promptly accepted by the Senate. Claudius was the first Roman Emperor raised to the throne by the Praetorian Guard, and the concentration of this strong body of troops in the city by Tiberius had borne its natural fruit.

Claudius.

Claudius has been compared not undeservedly with Janus the First. It has been said of them that the one ruled under the influence of two bad women, the other under the influence of two bad men. Both of them were pedants; the one wrote antiquarian treatises on the history of the Etruscans and Carthaginians, the other concerned himself with disquisitions on demonology and other important branches of mediaeval learning. And yet neither of them was intrinsically a bad man; they were both easily influenced by other

and that influence was generally bad ; but both were painstaking rulers, and would have been infinitely surprised at the suggestion that they were unworthy of a place among the chosen wise men of the world.

The striking feature of the reign of Claudius is the invasion of all branches of the Government by members of the Imperial household, especially the extraordinary growth of the influence of the Imperial freedmen ; the Roman world hung upon the nod of Messalina and Agrippina, of Callistus, Narcissus and Pallas. It was one of the weak points of the Government that the Emperor had no official civil service to transact the mass of business that devolved upon him. It was quite impossible that he should be his own secretary and treasurer, and that he should personally read and answer the countless petitions and communications that poured in upon him. In these circumstances the practice had early grown up of employing the freedmen of the Imperial household in the various departments. These were mostly educated men of Greek extraction. Under a strong ruler like Augustus or Tiberius they did their work efficiently, and were never heard of. A weak man like Claudius easily fell entirely under their influence ; instead of working quietly behind the scenes, and engaging in the mere routine of their various departments, they posed publicly as the advisers of the Emperor and the directors of the Roman Government. Their position depended entirely upon the Emperor ; they had no place in the social scale at Rome, and thus their efforts were directed only to amassing wealth by any means they could devise. The victims of the wives and freedmen of Claudius among the higher classes at Rome were numerous ; the possession of handsome gardens was a capital crime in a Roman noble if a member of the Court had cast covetous eyes upon them.

But in spite of these serious abuses the rule of Claudius was in many respects a success. The foreign policy was vigorous, and the Government now for the first time grappled with the conquest of Britain. In the provinces several steps were taken which had the effect of lessening the gulf between Italy and the provincials ; the ' Jus honorum ' was granted to Gaul and the Roman citizenship was conferred on many pro-

The
Imperial
Freedmen.

Foreign
govern-
ment of
Claudius.

vincial communities. Rome itself had much to be thankful for; the water supply was increased and improved by a new aqueduct; new streets were made and fine buildings erected; most important of all, the new Portus Romanus was made at Ostia and a costly attempt was made to drain the waters of the Fucine Lake.

Claudius took Augustus for his model, and his first care was to dissociate himself as far as possible from the methods of his immediate predecessors. The 'acta' of Gaius were repudiated; exiles for Maiestas were restored and confiscations cancelled. To the administration of justice he devoted special care and busied himself in judicial investigations. The laws of treason were abolished and the delatores were suppressed.

Among administrative changes the Procuratores in the provinces were entrusted with judicial powers in all financial suits affecting the Fiscus; but appeal was always allowed to the Emperor. Moreover, the management of the Aerarium was taken from the Praetors and given back to Quaestors chosen by the Emperor and appointed for three years.

Claudius
and the
Senate.

As an imitator of Augustus, Claudius naturally paid great attention to the relations of the Emperor and Senate. This body had under the last two reigns sunk to the lowest depths of servility. Claudius wished to restore its old dignity and to preserve the partnership that Augustus had arranged in the early days of the Principate. The Emperor was a regular attendant at the meetings of the Senate and frequently took part in the debates. Claudius undertook the revision of the list of Senators which had been neglected since the time of Augustus; his antiquarian tendencies led him to revive for this purpose the old republican Censorship, which he held with Vitellius as his colleague, and with all Republican forms and ceremonies he undertook the *Lectio Senatus* and the *Recognitio Equitum*. Beside this he was especially empowered by a *Senatus Consultum* to recruit the Patriciate by the admission of new families, the chief object being to preserve all the old religious ceremonies for the performance of which the Patriciate was in many cases a necessary qualification; for Claudius was most zealous in the matter of religion and in the year 47 A.D. he celebrated the

800th anniversary of Rome by again holding the 'Ludi Saeculares' which had been performed by Augustus only sixty-three years before.

In one other matter Claudius showed his love of old forms. Several of his laws were carried as 'Plebiscita'; but this reversion to the old order was of no importance, for all his chief laws were passed in the form of *Senatus Consulta*, and these seem to have been far more numerous in his reign than under any of his predecessors. It was one of the results of Claudius' respect for the position of the Senate as defined by Augustus that, in spite of his spasmodic attempts to revive popular legislation, the Senate in his reign was clearly the main source of legislation in Rome.

Nero's accession on the death of Claudius was hardly in doubt; he had been adopted by Claudius and had received the same Proconsular power from Claudius as Tiberius had from Augustus, that is to say he had already been practically nominated for the succession. But Nero like Claudius was actually proclaimed Emperor by the Praetorian Guards. Nothing remained for the Senate but to acquiesce, to give the full Proconsular power, to pass the *Lex de Imperio* and to see that the Tribunician power was duly conferred on him by the *Comitia*.

The reign of Nero began in a most auspicious fashion; he was still a very young man, and was content to leave the direction of affairs to his two able ministers, Burrus and Seneca. In his first address to the Senate, Nero formulated his principles of government;¹ the Senate was to be entirely free in the exercise of all its old functions; he himself would confine his activity to the management of the armies. Thus Nero went back to the theory of Augustus,—the theory of a restored Republic under the government of the Senate, with the Princeps at the head of the armies to help the State in time of war. For a time all went well; the two ministers managed the affairs of State with discretion, and Nero was left to his sensual indulgences. The struggle between the ministers and Agrippina ended in the defeat of the latter, and the evil influences which were feared from her ascendancy over

Govern-
ment of
Nero.

¹ Tac. Ann. xiii. 4.

Nero were removed. The change began with the death of Burrus in 62 A.D. The command of the Praetorian Guards was given to Rufus and Tigellinus, and the latter, with the aid of Poppaea, acquired entire ascendancy over the Emperor and brought about the fall of Seneca. The results of the new influence were soon seen. Nero plunged into every kind of wild extravagance and to fill his depleted treasury he resorted to the means used by Gaius. Trivial accusations, capital sentences, and confiscations were always ready for those who committed the crime of being wealthy. Nero had succeeded to a full treasury; in the year 58 A.D. he even conceived the plan of abolishing all indirect taxes¹ throughout the Empire. This plan came to nothing, but regulations were made to hamper the Publicani in their extortions; the exact conditions of the contracts made between the State and the tax-gatherers were published; claims that had been allowed to lapse were rendered void by the expiry of one year, and cases in which the Publicani were defendants were henceforth to take precedence of all others, the object of this being to prevent the continued postponement of a suit till the tax-collector had left the province. To ensure a cheap corn supply in Rome the burdens on the carriage of corn in the provinces were lessened, and the ships of the corn merchant were no longer included in the property rated for taxation. But with the change for the worse in the Government financial difficulties began, and the fatal practice of debasing the currency was again and again resorted to.

The reign of Nero was another example of the possibility of general good government under a bad Emperor. Under Nero, as under Claudius, a vigorous foreign policy was pursued. In Britain and in Parthia the Roman arms were attended with success, and the number of charges brought by the provincials against unjust governors shows that it was no part of Nero's policy to encourage the robbery of the provinces by his subordinates.

Nero and
the Senate. In the early years of his reign Nero allowed the fullest possible power to the Senate, but in this respect again his policy soon changed. He hated the Senate bitterly; he

¹ Tac. Ann. xiii. 50 and 51.

even formed the plan of abolishing it all together. The right of 'commendatio' was extended to the Consulate, and thus the independence of the Senate was lessened by the fact that the 'Consulares,' the highest rank in the Senate, consisted chiefly of the Emperor's nominees. It was in pursuance of this policy that Nero deprived the Senate of the coinage of copper, the most lucrative prerogative they still enjoyed. This systematic policy of ignoring and slighting the Senate, and the ruthless way in which the Senators were selected as his victims, explain the savage joy with which his fall was greeted by the Senate and the condemnation which they passed on him when he fled from Rome.

The events that followed on the death of Nero revealed 'another secret of Empire, that it was possible to become Emperor elsewhere than at Rome'; that, in spite of the Praetorian Guard a claimant might neglect the constitutional method, and come like the first Cæsar to seize the throne backed by an army. Not that constitutional procedure was to be entirely ignored; neither Galba nor the other claimants had any idea of taking the reins of Empire without the consent of the Senate. Galba in particular professed himself the friend and champion of the Senate against the tyranny of Nero; but the initiative lay with the armies, and the Senate had to acquiesce in the rulers that were found for them. Amid the rapid changes of this year it was inevitable that the administrative changes should be purely ephemeral. Galba, Otho, and Vitellius all showed the intention of respecting the position of the Senate, and dated their rule from the day on which the Senate had sanctioned their choice by the army. Hitherto the monarchy had been more or less hereditary; it had remained in one family. But the confusion of the year 68/9 A.D. brought once again into prominence the theory of the principate as first constituted, that the monarchy was not hereditary but elective. It had, however, at the same time become abundantly clear that a purely elective monarchy by reason of the jealousy existing between the various armies was far less stable than a monarchy resting at least in part on a hereditary basis. The early Emperors had been acquiesced in by the generals and legions on the frontiers, though they

The year of
anarchy.

had no claim to allegiance beyond the fact of their connection with the family of the Cæsars. As soon as the hereditary qualification ceased the struggle began; any commander with an army at his back could and did assert his claim. It was evident that election by the Senate was a mere farce, and proclamation by an army only inspired the other armies with a spirit of rivalry. Clearly the hereditary claim, though unrecognised in theory, was in practice of immeasurable importance, and this was so clearly recognised that Mucianus when offered the throne by his troops retired in favour of Vespasian because the latter had two sons, and was therefore in a position to found a dynasty once his own position was assured.

Vespasian. One feature of Vespasian's reign is noteworthy; he was a military commander raised by his soldiers to the throne, and it was not unnatural that he should lay more stress on the military than the civil side of the Emperor's power, and that the signs of autocracy should begin to be more visible in his reign. Vespasian was the first ruler to date his reign from the day on which he was hailed as Emperor by the army, not, as his predecessors had done, from the day on which the Tribunicia Potestas was conferred. Galba, Otho and Vitellius had been virtually Emperors as soon as their armies had proclaimed them and their rivals had fallen, but they kept up the empty tradition of election by the Senate. After such a beginning it was natural that Vespasian should keep the Tribunicia Potestas in the background. It was in fact out of date; it had been adopted by Julius Cæsar partly in recognition of the democratic development of which it had been the chief organ and from which the monarchy had sprung. Augustus used it as the basis of his civil power because of the democratic traditions that centred round the title. But the Republic had long since passed away, and the Tribunicia Potestas, though it continued to be always conferred on the Princeps, had no meaning for the generation of Vespasian. He had recourse to the original plan of Augustus, and except for two years he was annually elected Consul. This implied no actual change in the theory of the Principate, but merely a slight difference in practice. It is noteworthy that Augustus was induced to give up the scheme

of an annual consulship chiefly because of the inconvenience of having a colleague who was theoretically on the same footing as himself; Vespasian met this difficulty by generally associating his son with him in the Consulship. Vespasian intended to found a new dynasty, and to insure the succession of his son Titus by the same means that Augustus had used in the case of Tiberius. But Titus was placed nearer the throne than Tiberius had been. He was invested with the Proconsular Imperium and the Tribunicia Potestas in addition to which he was his father's colleague in the Consulship and bore the name of Emperor. Not that there were two rulers of Rome each with nominally equal powers; the fact that Vespasian was the monarch was never lost sight of; but Titus shared in the government as no one had ever done before. His head appeared on the coinage with that of Vespasian; he wrote despatches in his father's name and published edicts; he read speeches from the Emperor in the Senate instead of leaving them to the Quaestor. In every branch of State work the confidence between Vespasian and his son was complete. The danger that might arise from the Praetorian Guard had been amply demonstrated; the Praefectus Praetorio virtually held the safety of the Emperor in his hands. To prevent the recurrence of trouble in this quarter the command, which had hitherto always been given to an Eques, was now given to Titus. The mere fact that Vespasian could place Titus in this powerful position is a striking proof of the entire confidence existing between them.

The period of anarchy through which Rome had lately Vesp
passed made an entire revision of the finances necessary. and the
The treasury was empty, and Vespasian estimated that Senate
40,000,000,000 sesterces were needed to meet the necessary expenses, and to restore the credit of the State; the Senate had lost many of its members in the recent reigns; the old nobility had been exhausted by the ruthless judicial murders of the late Emperors. Partly with the view of grappling with this mass of administrative work and partly to emphasize his relation to the Senate—for Vespasian never granted them the independence they had enjoyed under Augustus and Tiberius—the Emperor in 73 A.D. revived the Censorship

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and held it with Titus as his colleague. As Censor he had a direct influence on the constitution of the Senate, which he purged of unworthy members and filled up by admitting leading citizens of Italian and provincial towns; the list of Equites was similarly revised, and the Patriciate was recruited by the admission of new families. Like the republican Censors Vespasian revised the citizen lists, and extended the Censorial activity to the provinces, conferring on many provincial communities the Roman citizenship or the *Jus Latinum*. A census of the whole Empire was carefully taken, and the capabilities of the citizens and provincials to bear additional taxation were investigated—a very necessary step in view of the depletion of the treasury.

Titus.

The reorganisation of the State by Vespasian was thoroughly successful; the finances were recruited; the peace and security which everywhere prevailed were blessings to which the Romans had long been unaccustomed, and the new era which he had inaugurated seemed likely to continue under Titus. The new Emperor in one respect went further than his father; he ruthlessly suppressed the Delators whom his father had left unmolested though he had abolished trials for *Maestas*. But Domitian who succeeded Titus gave an entirely new complexion to the Principate. He was above everything an autocrat, and though at first he treated the Senate with all respect, he soon abandoned Augustus' Dyarchy. The Senate's theoretical independence had naturally always depended on the will of the ruler, but though it had been in practice reduced to a nullity under the oppression of Nero and other rulers, no actual change had been introduced in the constitution of Augustus. Domitian was determined to reduce the Senate to complete dependence on himself; with this view he took the office of Censor for life, and thus gained complete control over the Senate. This change is important because subsequent rulers thought they did not actually take the Censorship, always freely exercised Censorial power, and the Senate never again acquired its old influence.

Domitian
and the
Senate.

In every way Domitian emphasized the dependence of the Senate; he refused to assent to a decree of the Senate denying to the Emperor the power to put a Senator to death.

He asserted his right to try Senators in his own Court, and admitted Equites as well as Senators to his judicial Consilium. Only the most trivial matters were referred to the Senate, and even then the Emperor was in the habit of attending the debate and using his privilege of voting first to frighten the Senate into obedience.

Not only did Domitian hold the Consulship from year to year as Vespasian had done, he went one step further, and in 84 A.D. he had himself nominated Consul for ten years. He stood on a higher level than any of the preceding Emperors; he was far from being the first citizen of Rome, the ideal position of Augustus; he was the first to allow himself to be addressed regularly by the title of Dominus, a term that was used to denote the relations of master and slave rather than ruler and subject.

Under Domitian the principle of Dyarchy received a shock from which it never recovered. Later rulers, abandoning the tyrannical methods of Domitian, allowed the Senate a greater show of freedom; but it never recovered the independence it had enjoyed under the early Principate. The Dyarchy was giving place to an avowed autocracy. Hating the Senate and the Aristocracy, Domitian fell back on the support of the army and the Praetorian Guard; he raised their pay by one-third and took precautions against disloyalty on the part of the Praetorians by carefully keeping the Prefect in the background. Beginning his reign with the treasury exhausted by the extravagance of Titus, and adding largely to the expenditure of the State partly by his foreign policy and the increase of the legionaries' pay, partly by his lavishness in providing spectacles and erecting public buildings, he fell into the evil courses of Gaius and Nero, and delation and trials for *Maiestas* again became common.

The period from the death of Domitian to the death of Marcus Aurelius was one of great prosperity. The subjects were contented, the rulers were conscientious and just, the Senate and the Aristocracy were conciliated. Even at the death of Aurelius the Dyarchy had not entirely disappeared; but long before that the tendency of the constitution was abundantly clear. The turning-point in the formal Dyarchy

was the adoption by Domitian of Censorial power and the consequent destruction of the Senatorial independence. Henceforth it was only a matter of time. The Dyarchy had been from a very early time a transparent fiction; the Emperor was continually increasing his own share in the government at the expense of the Senate; in finance, in provincial administration, in the government of Rome and Italy alike this tendency has been noted, and there is little to be gained by pursuing further the history of the constitution. By 285 A.D. the change was complete, and absolute autocracy had taken the place of the old partnership between the Emperor and the Senate which had been so elaborately arranged and so carefully maintained by the founder of the Principate.

There is little difference in theory between the constitutional position of Domitian and that of Augustus, and yet the former was a bloody tyrant and bore the title of Dominus, the latter was a just and popular ruler and was extolled for having restored the Republic. The Dyarchy was a constitutional fiction the maintenance of which depended entirely on the will of the Emperor; he might give effect to the principle and allow the Senate real power, he might by a system of proscription and oppression silence the Senate and parade his absolutism in the eyes of Rome. All depended on the view the individual Emperor took of his position. In strict fact the Princeps from the first was absolute master of the Roman world; it suited the policy of Augustus to try to conceal the fact; but in the course of two generations the Republican traditions had become dim and distant, and Rome was prepared for a more open display of supreme power. The step from the Dyarchy to an avowed absolutism was in reality a short one, and yet the Dyarchy lasted in theory nearly two centuries; but the tyranny which a Nero or a Domitian could exercise even under the form of the Augustan constitution, the impotence of the Senate, and the fruitlessness of all opposition unless backed by the power of the sword, showed the futility of the theoretical position of a Senate protected by no legal safeguards and owing its independence solely to the indulgence of the ruler.

APPENDIX

TRIBUNI AERARII

THERE is considerable doubt as to who the 'Tribuni Aerarii' were. The following seems a reasonable conjecture as to the origin and later application of the term.

The original 'Tribuni Aerarii' were the paymasters of the Tribes in the Servian organisation. Before the military 'stipendium' was introduced as a fixed charge on the State treasury, the *Tributum*, or special war tax, was levied in the tribes by individuals called *Tribuni Aerarii*. They then paid to the soldiers on service in their respective tribes the 'Aes militare.' They also levied the poll tax on the non-citizens (*aerarii*), and were responsible too for levying and paying to the equites the 'Aes Equestre' and the *Aes Hordearium* which was allowed to them for the maintenance of a horse. They are generally identified with the later 'Curatores Tribuum' who kept the tribal lists and schedules of the property possessed by members of the Tribes.

After 70 B.C. we read of 'Tribuni Aerarii' in quite a different sphere. When the *Album Judicum* (the list of jurors) was reconstituted by the Law of L. Aurelius Cotta, it was enacted that it should henceforth be composed of three equal 'decuriae,' Senators, Equites, and *Tribuni Aerarii*. It seems quite clear even from this alone that the *Tribuni Aerarii* were a distinct class, that the old name originally given to a few paymasters of the tribes was now given to an 'ordo.' We know further that they were closely connected with the Equites, and in fact were often spoken of as if they were Equites; e.g. Livy (Ep. xcvi.) says of Cotta's law 'judicia per M. Aurelium Cottam praetorem ad equites Romanos translata sunt'; and Cicero pro Flacco ii. 4, says of a jury of 75, 'judicabitis principes eius ordinis (i.e. equites) quinquaginta.' From this Mommsen concludes they were men of equestrian census who had not the *equus publicus*.

The *Tribuni Aerarii* were struck off the *Album Judicum* by Cæsar, but replaced by Augustus, who added another panel for less important cases. These were the *Ducenarii*, citizens whose census was 200,000 sesterces. The 'decuriae' were now composed of Equites, *Tribuni Aerarii* and *Ducenarii*. Of these the Equites had a definite property qualification of 400,000 sesterces, and the *Ducenarii* of 200,000 sesterces, corresponding respectively to census of the first and third class in the *Comitia Centuriata*.

The conclusion seems irresistible that the Tribuni Aerarii were also a definite class and that their property qualification was 300,000 sesterces, the census of the *second* class in the Comitia Centuriata.

Assuming this conclusion it remains to explain how the name formerly applied to the paymasters of the tribes came to designate the whole of the second class in the centuriate assembly. Mommsen holds that there was a connection between them; Madvig maintains that they were quite distinct. It seems to me, however, that the latter commentator furnishes the real explanation though he denies any connection between the two uses of the term.

Madvig holds that the original Tribuni Aerarii were not officials or magistrates, but merely private citizens,—members of the tribes entrusted with certain financial work connected with their own tribes and responsible for the due performance of it. Obviously these men had to handle considerable sums of money; to have allowed any citizen, no matter what his pecuniary position was, to undertake the work would have been to encourage speculation; and, moreover, we know that anyone not receiving his due payment had means of recovery against the Tribuni Aerarii, a privilege that would have been of little value if the Tribuni were men of straw. (Cato, ap. Gell. v. 10, 'pignoris capio ob aes militare, quod aes a tribunis aerariis miles accipere debebat.' . . .) In these circumstances, it was surely a natural precaution that only men possessed of considerable means should have been allowed to hold the position. The work was not too congenial, and hence the first class was passed over, and it became the custom to select the Tribuni Aerarii from citizens rated in the *second* class in the Comitia Centuriata; and in later years just as the name Equites was extended to include not only those who *were* Equites, but those also who had the pecuniary qualifications necessary for Equites, so the term Tribuni Aerarii, which had originally denoted those members of the second class in the Centuriate Assembly chosen for certain financial work, was extended to include all those who had the qualification entitling them to serve as Tribuni Aerarii.

(The above conclusion was arrived at before the article by Prof. Wilkins in the last edition of the Dictionary of Antiquities was brought before my notice. I have based the above note largely on this article, to which reference should be made for a fuller discussion of the point.)

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